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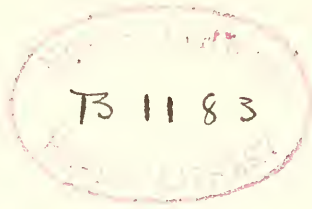


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LIFE AND PUBLIC SERVICES
OF
WILLIAM PITT FESSENDEN



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W. P. Fessenden

LIFE AND PUBLIC SERVICES
OF
WILLIAM PITT FESSENDEN

UNITED STATES SENATOR FROM MAINE 1854-1864; SECRETARY
OF THE TREASURY 1864-1865; UNITED STATES SENATOR
FROM MAINE 1865-1869

BY HIS SON

FRANCIS FESSENDEN

Brigadier-General U. S. A., Retired Major-General U. S. V.

IN TWO VOLUMES

VOL. I



BOSTON AND NEW YORK
HOUGHTON, MIFFLIN AND COMPANY
The Riverside Press, Cambridge
1907

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PREFACE

SENATOR FESSENDEN, during his public life, was a conscientious public servant, and his abilities and usefulness were so great that his fellow senators placed him in positions requiring intense assiduity in the preparation of measures and study of their subject-matter. To this work he gave all his energies and time, secluding himself from the public and the newspaper representatives to such an extent that his personality was, in relation to his importance in the Senate, comparatively little known, except to those who paid more than average attention to matters at Washington. There was nothing picturesque or sensational about him, and he did not become, like some of his contemporaries, a "popular figure" with the people at large. After his death there was no one sufficiently interested to write his life and at the same time in a position to do so. His sons were young men whose energies were sufficiently taxed in the support of their families. Some ten years or more ago, however, his son, Francis Fessenden, Brigadier-general U. S. A., retired Major-general U. S. V., undertook to write his father's life, and devoted years to the assembling of material, obtaining copies or originals of important letters, copies of records and documents from their archives, and writing the first draft of the biography. The labor was very great, as Senator Fessenden had kept copies of a few of his important letters only, and many of his personal papers had been destroyed in the Portland fire. The result of General Fessenden's labor was a manu-

VOID
2053

script of very great length, which was considered by him to need much condensation and excision.

General Fessenden re-wrote the work, and concluded it in 1905, but he died January 2, 1906, without having arranged for its publication. He bequeathed the manuscript and data to me and requested me to revise it and arrange for its publication. I have made no substantial alterations except that I have added some general letters, the author's photograph, and certain letters complimentary to the general which his own modesty forbade him to use.

JAMES D. FESSENDEN.

NEW YORK, February, 1907.

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LIFE AND PUBLIC SERVICES OF WILLIAM PITT FESSENDEN

CHAPTER I

BEFORE ENTERING THE UNITED STATES SENATE

WILLIAM PITT FESSENDEN was born October 16, 1806. His first American ancestor on the paternal side was Nicholas Fessenden of Cambridge, Massachusetts. William Pitt Fessenden, the subject of this sketch, was the son of Samuel Fessenden and Ruth Greene. Samuel was the son of William Fessenden and Sarah Clement. William Fessenden was the son of William Fessenden and Mary Palmer, and that William Fessenden was the son of William Fessenden and Margaret Wyeth, and the last named William Fessenden was the son of Nicholas Fessenden and Jane Atkinson. The original Fessenden, in America, was an uncle of Nicholas, John Fessenden, who came to Cambridge from Canterbury, England, as early as 1628. He died childless and his property descended to his nephew Nicholas and his niece Hannah, so that Nicholas was the first in America of the line from which William Pitt sprang. Nicholas was a man of education, and all his descendants above named were men of education and means; they married correspondingly, so that William Pitt Fessenden came into the world with a line of ancestry behind him of cultivated and well-to-do people.

The first six years of William Pitt Fessenden's life were passed in the house of his grandmother at Frye-

burg, Maine; but when he was seven years old he went to live with his father, who was a lawyer in New Gloucester, Maine. The boy grew up in a cultivated and Puritan atmosphere, and is described as being tall, thin, and very graceful, learning and reading eagerly, giving early promise of a brilliant career. He was called Pitt by his friends, and continued to be so called during his life by his friends and family. He opened early intellectually, but did not neglect the athletic and hardening sports and pastimes of people similarly situated. At the age of eleven he was prepared to enter Bowdoin College and presented himself for examination; Chief Justice Appleton says he distinctly remembers him as he appeared in a jacket and trousers, with a broad ruffle about his neck and looking very youthful, so youthful, in fact, in appearance, that the president of the college advised him to go back to his home for a year. He did so, postponing his entrance a year and then entering with the class which graduated in 1823. He had not inherited the powerful physical organization of his father, who was a giant physically, but had inherited a slender and graceful form from his mother, and her sensitive and nervous temperament with a delicate physiognomy. He attended the studies of the first year of the college, but lived at Gorham, his father considering him too young to be away from home influence and live as boys at college do, and in this home he read Horace and *Græca Majora*. He began living in the college town at the beginning of his Sophomore year, and took only respectable rank at first. He was not ambitious during the first two years, because his quickness of mind enabled him to take average rank easily, and left him time for amusements and sports; but at the last of his junior year, after the faculty had assigned their parts to the best scholars, a spurious assignment of



WILLIAM PITT FESSENDEN

At twelve years

parts was perpetrated as a joke, giving him a very inferior one; he was stung by this and resolved to win high rank, the result being that he stood high for the rest of his college course and would have graduated well if he had not got into trouble with the faculty. He was suspended by the faculty for something which he claimed he had not done. The boy wrote to his father that he could prove that he had not done the things with which he was charged. The father appealed from the decision of the faculty to the governing board of the college, the faculty was overruled, and the boy was allowed to receive his degree and appear in the catalogue as having graduated with his class. Upon leaving college he began to study law, although not seventeen years of age. The rules of the court would not allow his admission to practice until he was twenty-one years old, and he occupied the intervening time in haunting the courts of Cumberland County, observing the methods of the distinguished and able lawyers of that bar, among whom his father was a leader. He applied himself, among other things, to acquiring a command of correct and vigorous English speech, suited to the plain men who made up the New England juries, and with this object in view he wrote much, selecting the most simple and expressive Anglo-Saxon words. He wrote criticisms and articles for the newspapers, and had become somewhat known in the town as a young man of promise,—so much so, that in October, 1825, just about his nineteenth birthday, he delivered the annual address before the Portland Benevolent Society. This address was the first of many addresses which he delivered in his earlier years. In the spring of 1826 he went to the city of New York to study his profession with his uncle, Thomas Fessenden, desiring to acquaint himself with equity practice, which at that time had

been highly developed in New York, though but little developed in the State of Maine. He did not like the practice of law in the State of New York, regarding it as "vexatious" and requiring "threefold the labor to carry on a suit than was needed at home." He was four months in New York, and later said that the best results he had from that visit were from the exercise in walking three miles from his uncle's home to the office and going about doing errands. He now proposed to his father that he should go South and try his fortune, promising that if he succeeded he would push himself, and if he failed his friends should hear no more of him. But his father desired him to return to Portland, and he did so, resuming his studies in his father's office. He taught school at Gray in the winter, studying law in his spare time, and giving a legal opinion now and then; but it is observed, in reading the old letters, that before giving an opinion he would state the case to his father, giving his opinion with his authorities, and requesting his father's opinion before he vouchsafed any opinion to the client; "like a wise man I have reserved my opinion until I have received yours. Please answer by return mail."

In the spring of 1827 he was admitted to practice at the April term of the Supreme Court, although he had not attained his majority, but did not begin to practice until December. While a law student and before being admitted, he delivered the Fourth of July oration in 1827 before the young men of Portland. The oration is extant and shows a close study of national affairs and some acquaintance with the political condition of other countries, and presents the advantages arising from individual exertion and untrammelled intellect, declaring opposition to slavery and intemperance, and looking to popular education for the strongest support of our form of govern-

ment. In September he delivered an address on music before the Musical Society of New Gloucester. The indorsement he made upon his manuscript persuades one that some of his addresses were made more with a view to get practice than from love for his subject, because the indorsement on the front page of his manuscript is as follows: "A Speechification Delivered before the Squallacious Society in New Gloucester." Under the title he wrote: —

"Of singin', squallin', rantin', roarin'
You never heard so damned a pourin'."

The address, however, is a sober treatise on the effect of music on the human mind.

In December, 1827, he opened a law office in Bridgeton, in Cumberland County, about thirty-five miles from Portland, taking the office of a well-known lawyer, recently deceased, and plunged at once into business. Business came in to him, and in a fortnight after he made the start in Bridgeton he wrote his father that he would need him in two cases at the next term of the Oxford Court. In the summer of 1828 he prepared and delivered the annual address for the Athenæum Society of Bowdoin College upon the duties which educated men owed their country. "Manly philosophical research should be subject to no fetters, national progress should be hastened by the enlightened direction of the nation's physical power."

After practicing at Bridgeton for two years, he moved to Portland. Portland was then a place of about thirteen thousand inhabitants, with an extensive foreign commerce and a large domestic trade. The lawyers there constituted a distinguished bar, comprising Samuel Fessenden, Simon Greenleaf, and others. From January to October, 1830, Mr. Fessenden was in business by himself. A great grief

came to him in the death of his affianced, Miss Ellen Longfellow, a sister of Henry W. Longfellow. This affliction caused his withdrawal from social enjoyments, and he devoted all of his time to study, and eagerly availed himself of every opportunity to make addresses. He delivered an address before the Temperance Society of the City of Portland, and at this time, despite his extreme youth, he was spoken of by one of the Portland newspapers as "a speaker and writer well known to the inhabitants." This was at the beginning of the temperance agitation in Maine.

In August he delivered the annual address before the Gorham Light Infantry, the address showing a careful study on his part of the laws of war and the principles upon which militia systems were founded. Later in that year he became a partner with his father and Thomas A. DeBlois, the firm name being Fessenden & DeBlois. This connection gave him plenty of work, and he gave up, practically, general studies and preparations of addresses, barring an occasional speech. He began to make political speeches, and described himself at this time, in a letter, as "at the age of almost twenty-five, a sober moralizing man, with little care for anything but to win prosperity, deriving absolute enjoyment from nothing but a new 'suit' and a long account of fees with a balance in my favor;" stating also his belief that a "relentless and untiring ambition is the only safeguard against the seductions of what are called the innocent pleasures of society." It is said of him that he was well fitted for society at this period of his life, as always, having an easy and graceful bearing, agreeable in conversation, and really at heart enjoying social intercourse. Intellectual excitement he loved intensely, whether at the bar, in political debate, or in raillery and badinage among his intimate friends. His

repartee even thus early was excellent. He made himself a good boxer and fencer. He became engaged to Miss Ellen Deering in 1831 and married her the year after. She was the daughter of James Deering, a merchant of Portland. In the fall of 1831 Mr. Fessenden, though not yet twenty-five years old, was elected to the legislature of the State of Maine as an anti-Jackson representative. His party were then called Republicans, but soon after came to be called Whigs. Jackson and anti-Jackson party feeling was high. The important question in Maine at this time was the settlement of the boundary line between Maine and Canada. The dispute had previously been referred to the King of Holland. His decision was not satisfactory, and the federal government proposed that Maine accept the award, cede part of the territory which she claimed to the United States, and take an indemnity for it, the ceded territory to be surrendered to Great Britain. Mr. Fessenden at once took the position of the leader of the anti-Jackson party on the floor of the legislature and opposed the proposition concerning the boundary.

He endeavored to obtain an appropriation of funds for the erection of a general hospital for the State of Maine; he obtained a charter for the city of Portland, and made a long speech on the question of renewing the charter of the United States Bank. The speech was printed in full by the Whig newspapers, and in it he foreshadowed the independence of party dictation, which he exhibited at the great crisis of his life, by saying to the Maine legislature, in reference to the proposition to restrict senators in Congress by resolutions of the state legislatures: "They have much better opportunities to give the question full, fair, and thorough examination than we can possibly possess. On questions of great importance to

our whole country, I would not yield my honest convictions to comply with the directions of any set of men whatever. On questions of local interest, connected with ourselves alone, my constituents have a right to instruct me. But sir, on questions of general interest, I have a higher obligation. I am bound to form my own opinions and to act upon them in a question of this kind. Sir, did I know that the opinions of every one of my constituents differed from my own, I would act according to my own conviction of right. I am willing to be the servant of the people, but I will never be their slave."

His performances at this session of the legislature made him well known throughout the State and regarded as the Whig leader in the House and a good debater. At the close of the session the Whigs proposed to nominate him for Congress, but he declined this, having decided to keep out of political life until firmly established in his profession. On his return to Portland from the legislature in the spring of 1832 he married Miss Deering, and he took her to Washington for a wedding trip, as he had been made a delegate to the Young Men's Whig Convention which was to meet in Washington in May. In spite of his resolve to pay attention to law practice, politics engrossed much of his time, for it was presidential year, and he offered the following toast at a dinner which the anti-Jackson people gave to the two Maine senators: "Constitutional law as expounded by Andrew Jackson, which makes every man responsible only to what he chooses to call his conscientious belief. The acts of this founder and his partisans furnish a strong commentary upon the power of the tribunal." Directly after this, he was beaten for the legislature, and began to attend to his law business. The firm had a large business, but the two senior members were in the prime of life, well

rounded in every branch of the practical application of law, so that the younger partner had very little opportunity to come to the front. Feeling this, he left the firm, and, believing Bangor to be a good place to start, went there. At that time it was a two days' journey by stage from Bangor to Portland. He stayed a year in Bangor, but decided, on account of his wife's health, to come back to Portland, which he did; and his books show that, even before he found an office in Portland, business began to come to him. During the year he was in Bangor, he argued twenty-five cases, together with general business. He found time to write satirical articles upon fashionable hobbies, etc. A case which added to his reputation came to him by accident before he had found an office in Portland, and shows his resources and courage. He made the acquaintance of a gentleman from New York, who was in Portland looking after a cargo which had been consigned by a Cuban house to a Portland firm. The Portland firm had failed while the vessel was on the voyage. If the vessel came into port and the cargo reached the consignees, the cargo would go to the creditors generally. Mr. Fessenden advised that a boat should be kept in readiness on the shore of Cape Elizabeth, about six miles outside of Portland, the coming vessel, when sighted, to be boarded, and a stoppage *in transitu* effected. This was done, resulting in a prolonged lawsuit in which the Cuban house was ultimately successful.

The hardships of a lawyer practicing in Maine at that time may be judged by the following letter which Mr. Fessenden wrote from Bangor, where he had gone to try a case. It was in winter and the trip took two days. He says: "It is Bible truth that the thermometer stood at twenty-four degrees below zero when we left Augusta at

five A. M. One experiencing such cold can well understand what the phrase, 'Cold as Hell' means. Home? I wish to Heaven I was there and never obliged to leave it."

In the autumn of that year, being in attendance at the United States Circuit Court at Wiscasset, he met Daniel Webster, who had stood as his godfather, but whom he had not seen in the mean time. He made a partnership in 1835 with William Willis, a man older than he, with an established business, but who preferred office to court work. The firm was successful and lasted twenty years, until Mr. Fessenden went to the United States Senate in 1854. He was now one of the first court lawyers in the State of Maine, contending with the leaders of the Maine bar. His principal adversary was his father. It is interesting to note the increase in number of his appearances in the reported cases before the Supreme Court. There is a steady increase until 1837, when in the 14th Maine he first appears in more cases than his father, at this time being thirty-one years of age. A Maine judge said to the writer that at this time Mr. Fessenden was unequalled in the clearness of his statement, in his powers as a dialectician, and the quickness with which he could point out his adversary's error. To these qualities he added an intense industry which overlooked nothing.

From the time he met Daniel Webster in Wiscasset until Mr. Webster's chances of receiving the presidential nomination vanished, he worked hard to bring about Mr. Webster's nomination, corresponding frequently in that connection.

In 1837 Mr. Webster was intending to visit the West, where the Whigs desired to see him. There were no railroads beyond the Alleghanies, and only a few on the Atlantic slope. It was suggested to Mr. Webster that he have a young friend with him of sufficient discretion and

ability to speak for him when necessary. Mr. Webster invited Mr. Fessenden, and Mr. Fessenden joined Mr. Webster and took the journey with him. The invitation is preserved, and is as follows : —

BOSTON, April, 8, 1837.

MY DEAR SIR, — I propose to make a journey, this spring, to the West, and casting about for companions, it was suggested to me by Mr. Ketcham, that as your health might be benefited, and your curiosity gratified, by a tour in that direction, it might not be disagreeable to you to be one of our party. If such should be your feeling, I should be very glad to have you join us. Our purpose is to set off in such season as to leave Philadelphia on the first of May ; to go to Pittsburg via Harrisburg ; thence to descend the river, visit Lexington, Frankfort, Cincinnati, Louisville, etc., etc., and arrive at St. Louis about the first of June. From St. Louis our course will be up the Mississippi and Illinois rivers to Peru, Galena, and other places in that neighborhood, and then across to Lake Michigan and so to Detroit and home by way of Buffalo and Utica. Through this tour, or as much of it as may be practicable, it is proposed that my wife and daughter shall accompany me. I believe, also, that Mrs. Webster's youngest brother, Mr. Edward LeRoy, will go with us. If we accomplish all this, and reach home by the middle of July, we shall have done well.

Mr. Ketcham, as I have reason to hope, has suggested something of this subject already to you. It will give me much pleasure to learn that the plan falls in with your wishes. Nothing is likely to prevent my setting forth at the time mentioned, unless the *times* should be so difficult and squally as to embarrass us in those preparations which may be necessary for so long an absence.

I will only add, that if your engagements, or other

causes, should render it inconvenient for you to go the whole tour with us, I should still be happy in your company for such part of it as may suit with your inclinations or other arrangements. The length of the journey and the state of the season, as it will be, by the time we reach the Mississippi, make it prudent, I think, to leave the Atlantic coast by the first of May.

An early answer will oblige

Your friend,

DANIEL WEBSTER.

During this trip Mr. Fessenden wrote so many letters home that it is possible to make a description of the trip and his impressions; and in a condensed form it seems worth while to include here an account of the journey.

Mr. Fessenden joined the Websters at Harrisburg, where the railroad ended and the journey by canal began. They went up the valley of the Susquehanna and Juniata rivers by canal to Harrisburg, then were drawn up the mountains in cars to the crest, descending on the other side by gravity to another canal, by which they proceeded to Pittsburgh.

Mrs. Webster he found very sociable and agreeable, and Miss Webster bashful, but possessed of a very intelligent face and good conversational accomplishments. A party of young Western men joined them, among whom Mr. Fessenden says was a lawyer, a merchant, a dandy, and an engineer. He was greatly impressed with the signs and symptoms of enterprise at Pittsburgh and the number of factories and steamers. He concluded "that Mr. Webster would never gain popularity by personal intercourse—to strangers he appeared repellent. So far as gaining friends was concerned, Mr. Webster might well, if not better, have stayed at home and left his fame and public service to speak for him."

William Pitt Fessenden in 1836



From Pittsburgh the party descended the Ohio in a steamer. The sail was delightful, as all nature "seemed yielding to influences of spring." At Wheeling Mr. Webster and his party were received with great enthusiasm, and the next day Mr. Webster addressed the populace. From Wheeling they sailed down the Ohio, stopping at the most important places, until they arrived at Marysville, Kentucky. Here they left the river and crossed to Lexington, to enjoy the attentions of Mr. Clay and the leading Whigs of that district. They attended the spring races, a dinner at Mr. Clay's and many parties given in their honor by leading citizens, inspected some of the splendid farms, and attended a barbecue which was given for Mr. Webster. Writing from Lexington, Mr. Fessenden says: "Mr. Webster meets with so warm a reception all along the shore that what with guns, dinners, speeches, and the like, one is continually excited. These Kentucky boys especially are the right sort. We arrived here in exactly the right season to see the last of the spring races. Four horses were entered; I lost eight 'hailstorms' on Maria Louisa. One must pay for his learning, you know. Never having before witnessed a regular blood race, I was prodigiously amused, and quite as much with the people about me as with the race itself. The Kentuckians, as you are probably aware, value themselves greatly on their breed of horses; all enter into the spirit of such an occasion, and it was not disagreeable to see such men as Clay, Crittenden, Robinson, and others of that stamp apparently as much excited, talking as loudly, betting as freely, drinking as deeply, and swearing as excessively as the jockeys themselves.

"The occasion was well worth being seen by a Northern man for another reason, and that was that he might correct some of his opinions about Eastern superiority. The races

here are a holiday and great crowds are assembled, and yet I am compelled to admit, however, that I do not see one of our Southern 'horizontilated;' and though 'hailstorms' and 'snowstorms,' etc., seemed somewhat plenty, on the whole there was vastly less of quarreling and all the other disagreeables which usually attend any considerable gathering of the people than is almost invariably met with at our own militia musters. It may be said, indeed, that the best part of the community attends these races, while the best part of our community keeps away from musters and such like fatigue.

"A 'hailstorm' is a brandy julep; a 'snowstorm' is a weaker one. The way they drink these things in Kentucky is a caution to sinners. Fruit, they say, is best in places where it is indigenous; the same rule is applicable unquestionably to the articles referred to, speaking from my own personal observation.

"I have not seen as handsome women as our Portland beauties since I left New England; not one, by Jupiter, not one! Give me New England ladies as yet."

His wish to see some of Kentucky's handsome women was to be gratified. At Frankfort he thought the ladies were decidedly lovely, and at Louisville he was quite overcome by the elder Miss Bullitt, who, he declared, was one of the most charming women he had ever seen. "I saw her at her father's, and the next evening at another party; devoted to her all the attention she would receive. Have since learned that she was noted for her powers of fascination, arising more from her delightful manners than from her personal beauty; was told that she was a terrible mankiller, and whistled her lovers off without ceremony. 'What a terrible bullet!'"

A barbecue at Frankfort, at Versailles, and at Louisville followed, and Mr. Fessenden says that throughout

Kentucky Mr. Webster was most enthusiastically received, and at Louisville with something akin to idolatry. At this time he writes: "Mrs. Webster and daughter are sick and tired with glory; their fatigue must be excessive, and as to the show, Mrs. Webster, though proud of her husband, has little taste for it, and poor Julia none at all; if Daniel was but half as winning as either his wife or daughter, I would give more for his chances."

From Louisville the party ascended the Ohio to Cincinnati, where Mr. Fessenden met a man who was to have close personal political relations with him at a critical epoch in our history, and to whom he refers as "a young gentleman by the name of Salmon P. Chase."

After spending some days at Cincinnati, the party returned to Louisville and took a steamer for St. Louis, arriving there on the 10th of June. The journey consumed three days and nights. Mr. Fessenden writes he "was excited on approaching the Mississippi and seeing it rolling its deep and strong waters to unite with the broad and beautiful Ohio." "I can hardly account for it, but the impression the Mississippi makes is stronger. The river is, or seems to be, more vast; it gives one the idea of power. We had a race, and though everything looked red hot, yet as our boat carried 'Cæsar and his fortunes' there was no danger, and we won.

"Arriving at St. Louis, we found the shore lined with spectators. The multitude shouted, and Mr. Webster took off his hat, and then came another shout again. They put him into a coach, which moved on with the people all after it in procession, and so they went on, the music playing 'Hail to the Chief!'—windows lined, handkerchiefs waving, boys huzzaing, dogs barking, noses glowing, with four or five Indian chiefs following in the rear, each of whom in turn seized Mr. Webster in

his arms and kissed his cheek and so ended that lesson."

Up the Mississippi to Alton, where they crossed Illinois to Jacksonville and Springfield; thence to Peoria and Peru and Chicago, then a town of 4000 people.

Mr. Fessenden from thence proceeded alone, crossing the country by stage to Niagara, stopping to see the cataract, and proceeded home, where he arrived after an absence of two months and a half on the trip with Mr. Webster. During the journey Mr. Fessenden wrote much to Mr. Ketcham in New York concerning the journey, and Mr. Ketcham published much of it in the newspapers, to make the public more familiar with Mr. Webster's personality, and in the following years both men labored zealously to have Whig state conventions and Whig members of state legislatures declare their admiration for and confidence in Mr. Webster. The New York City Whig Convention announced its preference for Mr. Webster. Mr. Fessenden worked successfully to have a similar expression made in Maine, and labored for the nomination of Mr. Webster. Mr. Fessenden's efforts drew the following letter from Mr. Webster: —

Boston, April 21, 1838.

MY DEAR SIR, — I am here on a short visit, and must not omit to write you before I return to Washington for the purpose of thanking you for your deeds of respect and kindness on a recent occasion. Aside, however, from all personal considerations, I think the common cause would have been greatly injured by the adoption on the part of our friends of that course which you so efficiently opposed. Events appear already to have made that clear. I learn from Washington that the Whig National Convention is fixed for the first Monday in December,

1839, then to be holden at Harrisburg. This is all very well; it will give us a fair and clear field for united exertion throughout this year and the next. We must contrive to meet and sip our wine together in the course of the summer. I hope you will be able to come this way; if not, I shall try to make a trip to Portland.

With true and cordial regards, yours,

DANIEL WEBSTER.

In 1837 Mr. Fessenden managed the gubernatorial campaign, in Maine, of Edward Kent, though unsuccessfully. He had been a favorite with many Whigs for member of Congress from the Portland district. He again declined that honor in favor of Mr. Whitman, the incumbent. Mr. Whitman was renominated, but beaten. Mr. Fessenden was elected a member of the legislature in the state election of 1839, the legislature meeting on the first of January, 1840. He was placed on the judiciary committee, on the committee for the revision of the statutes, and made its chairman, though belonging to the minority party. The work that session was arduous, because, in addition to the usual business of the legislature and the revision of the statutes, important matters of national interest occupied his attention. The right of petition to Congress was brought up in this legislature, and he was made the chairman of a committee to report upon the matter. He returned home from this session, with his reputation enhanced, to a special term of the court in April and May, a short recreative trip to Massachusetts, and a plunge into politics. The opening address of the Whig campaign was made by Mr. Fessenden. Kent, during the summer, was again nominated for governor, and Mr. Fessenden bore a leading part in the campaign, having accepted the Whig nomination for

Congress. The district had always been held by the Democrats. He stumped the State and was elected to Congress. The word went about that he was an Abolitionist, and he was obliged to write a letter for publication in Washington, saying that he had never been a member of the Abolitionists' society, and making no secret of his unqualified want of confidence in the expediency and beneficial effect of such associations. The misunderstanding was due to the confusion of his views and those of his father. His father was one of the earliest Abolitionists in the State of Maine, one of the founders of the Liberty Party, its candidate for governor many times, and a man who probably did more, and suffered more, than any of the early Abolitionists in the State of Maine; and William Pitt Fessenden, in the above mentioned letter to Washington, said: "The fact was well known of his undisguised difference with one [his father] whose opinions on most matters of importance he had always found it safe to follow, and with whom any difference of sentiment was, to him, a source of profound regret."

Although there was plenty of law business at this time for Mr. Fessenden in Portland, it was not remunerative. He was earnestly invited to join a well-established and distinguished lawyer of Boston, T. P. Chandler. He was strongly tempted. His family was increasing and he desired to gain an independence, but the condition of his wife's health was the prevailing influence, and he declined. He attended the adjourned legislative session for several weeks to present and explain the revision of the statutes; returned to Portland and went to Washington, taking his seat in Congress. His letters indicate that he came to the judgment that the best and ablest men of the House sat still and voted, never speaking, except a

few words in the course of business, while the noisy and the vain figured in the papers as the leading men of the country.

Mr. Fessenden's father accompanied him to Washington, and they reached the capital on May 30, 1841. Mr. Fessenden declined an invitation to join a mess composed of New England friends, saying that he preferred a little more mixing up, as herding together people from one section had no excitement or profit in it. He writes home, June 9, 1841: —

“The General (meaning his father) left yesterday morning after having seen all the lions. How true is the trite remark that great men diminish as you approach them. It is not so, however, with Webster, intellectually considered. He appears to be better than usual, but the majority of them, bah! mere squabblers for notoriety, playing a noisy game for effect. Such is — and that whole genus. Not but that many of them possess genius and learning, but they want true greatness of purpose and place a false estimate upon themselves and things around them. I absolutely tremble for the Union when I see the utter selfishness which seems to pervade the representatives of the people of both political parties. But some few good men there are, and able too, but of them you see nothing in the papers. They content themselves with trying to do something and are ashamed to participate in the noisy clamor which is going on around them. Such are Mr. Sergeant, Mr. Saltonstall, and a few others. . . . A man needs to be here only a short time to feel the utter worthlessness of congressional or newspaper reputation. . . . If anything could satisfy these Southern men short of yielding the principle for which we are contending, I would quiet them at all hazards for the good of the nation. We have borne about every kind of insult for the

sake of getting to business, and not disappointing our friends and ruining the party. I have absolutely left the House two or three times so that I may not be forced into a reply and defiance. Yesterday we went twelve hours without food, hoping to effect something."

Mr. Fessenden was placed on the committee on naval affairs, and tried his voice for the first time in a discussion of the Senate bill for the repeal of the Sub-Treasury Law. He found the debates interminable, and that political life grew more and more disagreeable to him, the more he saw of "great men and their little motives." He took part in the debate, on July 12, upon the Loan Bill, and showed the quality of his wit in a response to an attack made upon him by one of his colleagues. Congressman Clifford moved an amendment to a special appropriation bill, adding six thousand dollars for repairs on the Portland forts. It appeared, on inquiry, that the money had already been appropriated. Mr. Fessenden, with Mr. Clifford's approval, opposed the amendment on the ground that nobody asked for the money and that a special session was not the time to introduce matters not requested by the proper department. One of his colleagues, a Democrat, thought he saw an opportunity to chastise Mr. Fessenden, and prepared a long attack upon him for opposing the interests of his locality. He delivered the speech with his hat in his hand and the speech concealed in the hat, glancing into it occasionally to assist his memory. Mr. Fessenden replied by saying that he would not have addressed the House had it not been for a speech of such extempore eloquence, which was understood to be an attack upon himself; if his colleague had consulted his head instead of his hat, he might have saved himself his pains. Then explaining that he opposed the amendment by agreement

with the member who had moved it, he said that the deliberate preparation in the secrecy of the chamber, after the lapse of several days, of an attack upon a colleague, evinced a sort of manliness of which, fortunately, they did not have a great deal in Maine. As to the gentleman who had made the attack, he had no apprehension of any immediate rejoinder, since the member would first have to go home and consult his hat for another week!

He made an extended speech at this session upon the Boundary Bill, which was highly praised. This special session dragged on until September 13; the adjournment found the breach complete between the President and the Whigs. The Cabinet, except Mr. Webster, had resigned after a second veto on the Bank. During the Bank discussion Mr. Fessenden writes: "Mr. Webster is in great trouble about matters and things just at this time, and so are we all. If the President approves the Bank Bill, all will go well; if not, we are at sea again. The truth is, we are in a most dangerous situation, we are in the hands of a vain and weak man. Webster, however, has great power with him, and should that prevail we are safe. We ought not, after such a victory, to be in so humiliating a situation."

August 8. "We are just now in great agitation here about the Bank Bill, which has passed both Houses and gone to the President. If he vetoes it there will be a great blow-up. I wish the devil had him at the end of a pitchfork. If we break up in disgust, effecting nothing, our party and our cause are lost, and all by the obstinacy and vanity of a poor animal who was never worth the snuff of a candle, or a cheese-paring, or a quid of tobacco. I pity our friend Mr. Webster, for he has done everything that wisdom could devise to save us, and he is much affected by our present position and prospects."

He joined somewhat in the social life in Washington, enjoying a friendly intimacy with Daniel Webster and his family.

January 12, 1842, Mr. Fessenden writes : —

“New Year’s Day is a great holiday in Washington. Everybody’s house is open to friends. First, I attended the President’s levee. There was an enormous crowd. We came out through the window, thankful to escape. Then I went to call on Mrs. Taylor, and had a delightful ten minutes. She is in mourning, and her arrangements were in consequence swell and quiet; eggnog and cake. However, I did not indulge. Then I went on to Mrs. Madison’s, who is as upright as a pillar of salt and in about as good preservation, though between seventy and eighty. She comes up to my idea of an old English dowager duchess. This, too, was agreeable. After this I went to see ex-President Adams, with whom I shook hands. By this time I had got enough of it. We were all home at three o’clock, and we had our own eggnog. At four o’clock I went to dine with the Websters, a mere family dinner and a very agreeable one, myself and one other gentleman being the only guests. Dinner prefaced with apple toddy, and closed as dinners usually are. I returned at seven, and at eight went to see the Saltonstalls by invitation, where was eggnog. I liked the youngest Miss Saltonstall; she has a fine head and good figure; talks well, and is sociable. Came home about eleven and went to bed.”

January 16. “If you knew how utterly detestable this congressional life is to me, you would entertain no apprehensions of my again becoming a candidate. As a member of the Whig party I feel absolutely degraded. I am ashamed of our leaders, as well as of many of those who compose the rank and file. I could not have deemed it

possible that men honored with the confidence of the people, and who have talked patriotism so loudly, would be governed by motives so contemptible. I am cured, I hope, forever of all fondness of public life, and could I do so without forfeiting obligations to others, would gladly resign and come home. I shall not voluntarily place myself in such a position again."

On the 11th of February he made his first financial speech, and the "Boston Advertiser," in reviewing the debate, described Mr. Fessenden as "the equal of the ablest members on the floor of the House, whether as a sound thinker, an effective orator, a close reasoner, or a clear-headed politician." He writes at this time, "I am every day growing more of the opinion that we must abandon all differences at home, except that between the Northern and Southern parties. I wish the people of the free States could witness the proceedings of Congress. They would soon see and understand the mean subserviency of these Northern hirelings and cast them back into their native insignificance. The day must come; it may be distant, but it must come."

The discussion of the case of the brig *Creole* made him decide to attack Mr. Webster's doctrines if the subject came up in the House, writing to a friend as follows: "I fear that a few years more will see the North and South entirely at issue, and for one, if the North is to be eternally sacrificed for the benefit of slave labor, I am willing to see that day come, terrible as it will be." During the session he wrote home to his friends that they must look out for a new candidate for Congress; that his public career had become odious by reason of the qualities which he thought he discovered in the leading men. "Could I only see myself back, and comfortably located in my own home, with a prosperous business and happy family, you

would certainly find me contented — for three weeks at least.”

At the early part of this session, John Quincy Adams was making his courageous efforts to break down the “gag rule” in the House; and though at first inclined to think that Mr. Adams was sometimes too violent, Mr. Fessenden sympathized deeply with the courageous old statesman and endeavored to get the floor to reply to Marshall’s speech, but failed. His feeling on the subject is shown in his letters.

January 23, 1842. “We are having a great uproar in the House over the slavery matter; we are getting violent on both sides, and if I can get a little more enraged, I shall say something myself. On this subject Mr. Adams talks unwisely, and is only justified by the course of the Southerners and the Northern locofocos. I shall stick by him, come what may, so far as my vote goes, for the insolence of these Southern boys is intolerable.”

January 26, 1842. “The House is in a great state of excitement. Old Q. presented a petition for the dissolution of the Union, accompanied with a motion for a report against it, and the Southern fools and the Northern rascals are trying to get a vote of censure upon him. It is all a miserable farce, and its authors, Wise and Marshall, richly deserve the contempt which one receives and the other only escapes by the virtue of his fine powers. Wise has been pouring out, for two days, his hoarded vials of abuse upon everybody and everything except Locofocoism. Mr. Adams scored him in a few words to-day, and I sincerely hope it will be followed up. I have half a mind to give him the length of my tongue if I can get the floor, for my patience is entirely exhausted. However, the end is not yet.”

January 29. "Mr. Adams's affair is yet going on in the House, and when it will close I will not even pretend to guess. It is a most unprincipled business on the part of Marshall and a few others, being, in my opinion, designed to break the old man down if possible. I have not yet sent you the paper containing this speech, for I intend to comment on it if nobody else does to my satisfaction. It is brilliant and able, and, so far as Mr. A. is concerned, is perfectly atrocious. The Southerners and Northern Democrats have united to place the Northern Whigs in a false attitude before the country, to make them look like supporting disunion, and thus to overthrow, if possible, the Northern Whig doctrines as to the right of petition. For once, if I can get the floor in season, I shall set myself right upon it."

February 6. "Mr. Adams is determined to make the most of his opportunity to pour out all he has for years desired to say. His speech on Thursday was exceedingly fine, far surpassing anything I ever heard before in eloquence and wit. He is more than equal to all his adversaries. He does many things imprudently and many things in bad temper; but a thousand excuses may be made for him in the abuse he receives, and the unfairness with which he is treated by the combined forces of Southern men and Northern Democrats. I love the old man for his indomitable spirit and the uprightness of his soul. I have made a vain attempt to get the floor, and am determined to speak if possible."

February 7. "The House has just disposed of Mr. Adams's case by laying it on the table, thus cutting me out of my speech, as also a great many others. Perhaps it is for the best; it is a triumph for the old man. He is the greatest man in the nation."

Mr. Fessenden wanted to get into this discussion, but

the nearest he came to it was to give notice to the House that he would on the first opportunity offer a resolution to repeal the twenty-first rule (the "gag rule"); but he never got the opportunity.

Like most of the Whigs, Mr. Fessenden thought that Webster ought not to continue in Tyler's Cabinet. He ceased visiting the Websters, as he was prepared to attack Mr. Webster's position in the Creole case, and he also intended, when he got an opportunity, to attack the President on the floor of Congress. With this feeling, he thought it would not be honorable to continue his intimacy with the family, although he was very fond of its members. He wrote: —

"My feelings are so changed with regard to Mr. Webster that I sometimes feel that it would be wrong to visit his house on the terms that I have been accustomed to, and yet it would seem ungracious and unkind, after all the civilities I have received from the family. I attended a supper last evening at which were present Mr. Webster and other gentlemen of political, military, and scientific distinction. Daniel was amazingly in the dumps, and indeed he is seldom otherwise now, and I am not surprised. His position is most unenviable.

"John Tyler will be thrown overboard by the Whigs in the House, and he deserves it. There can be no object in keeping up appearances with him. I am prepared for a speech which I shall deliver if I ever get a chance, which is doubtful, as the debate will close on Wednesday, and there is yet a multitude who desire to speak. If I do get the floor I shall define my position, — that of hostility to Tyler and all connected with him, — and thus I shall be thrown out of all communion with my old friend Mr. Webster. He does not look very kindly upon me now, and this will finish the business; but I cannot help it."

Three months later, about the time the Ashburton treaty was concluded, his former friendly relation with Mr. Webster was restored. He writes, July 23, 1842 : —

“One of the pages came to me day before yesterday, saying that Mr. Webster wished to see me. He was standing near the door when I got there and we stepped into the passageway, when he said that ‘Mrs. Webster had declared war against me for not coming to see her, but as treaties were the order of the day, she had sent him up to say that Mrs. Madison and some friends were coming in to dine, and I must come too, and as there is nothing of consequence doing in the House to-day, you will not fail.’ I said, ‘It would give me pleasure,’ &c. Accordingly I went and was received by Mrs. Webster most kindly and cordially, just as if I had been there the day before, sat next to Mrs. Madison at dinner and had a very agreeable dinner, and after dinner had a half-hour talk with Mrs. Webster. She remarked that their friends seemed to keep aloof, but that she never felt disposed to talk politics, and their friends must not stay away on that account. I ventured to say to her that perhaps in the present relations existing between them and the administration their friends might feel some delicacy in coming as usual and conversing familiarly for fear by and by they might be considered as dishonorable. She said that could not be, for of course they would not talk about the President; and then she went on to say many things which showed that she considered herself speaking to one she fully trusted.

“I confess that all this quite affected me. Mr W. is evidently unhappy and troubled. Mrs. W. is more so, and feels most sensibly the falling off of old and tried friends. I cannot resist such an appeal made to me. I will not add to her troubles, but will show her that respect and regard which I really feel.”

On May 31, 1842, he spoke against a reduction of the army, opposing well-known and frequently expressed views of John Quincy Adams, then in Congress, and saying, after a compliment to Mr. Adams, that he expected, for his remarks, to be used up, if Mr. Adams condescended to notice him at all. Mr. Adams, however, replied that he had listened with great attention to Mr. Fessenden's speech and that it had almost persuaded him that he was wrong. He made a reply to a Southern member to what he considered an unjust imputation. The gentleman retracted it at the close of Mr. Fessenden's remarks, and Mr. Fessenden made a jest which gave offense and called out a violent attack upon Mr. Fessenden containing the insinuation that he, Mr. Fessenden, would join the guard at any moment if he could get an office by it. The newspaper account of the incident was that Mr. Fessenden, "a young man of brilliant talents, a high sense of honor, and always unexceptionally honest and direct in his political course, instantly took the floor to reply. It was one of the most happy specimens of indignant retort it was ever my lot to listen to on either floor of Congress; it was all it should have been, direct, short, plain, and to the point, and closed with a peremptory demand upon the author of the attack to prove his unfounded and gratuitous assertion or retract it. The gentleman immediately arose and said, 'Mr. Fessenden, I do.' Mr. Fessenden won great credit by the calm, dignified manner and brilliant and telling eloquence with which he sustained himself upon this occasion." The session ended at the end of August, and on September 5 Mr. Fessenden, having returned home, addressed a large audience in the City Hall, Portland, in vindication of the course pursued by the Whigs in Congress. He was back in Washington on December 3, but the only time he spoke during the session was in reply to Caleb Cushing.

Cushing had abandoned the Whig party and joined the Tyler Democrats, and spoke in defense of his course. Mr. Fessenden's reply was gratifying to the Whigs and much complimented.

During the latter part of the session he attended a fête given by the Russian minister, Mr. Bodisco, and his account of it, taken from one of his letters, is not uninteresting : —

“When I ascended the steps there stood a man in uniform with a chapeau, whom I took at first for an officer waiting for his friends, but soon found he was the porter. Entering, we passed through the hall in which were some six or eight more gentlemen in lace, but they were mostly colored gentlemen, who bowed very obsequiously, and pointed the way upstairs. Ascending, we found another personage of the same description who announced us to Mr. Bodisco, who was stationed at the entrance of the small room over the entrance. My name was announced as Mr. Pleasant, which, being highly appropriate, I permitted to pass. Moving on through the rooms, we found Madame stationed at the farther end of the farthest, and on giving our names to a gentleman who stood by her, were introduced, bowed, and fell back. I astounded some of our good people here this morning by assuring them gravely that I took the porter for Bodisco and the other servants for the whole line of foreign ambassadors, and accordingly went bowing from the hall door to the entrance of the reception room, being much astonished when I got there to find that the introduction was yet to come.

“Well, being fairly in, let us take a look at the good people assembled. Mons. B. was strapped in lace and glittering with orders, — beruffled, bepadded, bestiffened, wigged, mustachioed, and whiskered, — a short, thick, squat fellow, but civil and well bred. His wife was simply

dressed, but glittering in jewels, well put on, and exhibiting a bosom which attracted more admiration than all of them, an exceedingly fine looking woman,—decidedly surpassing in beauty any one of her guests, so far as looks go, fitted to grace any rank, and of her looks alone, had I an opportunity to judge. The Secretary and divers others were there, but no one seemed a lion, for there were too many of them.”

In the following March he returned home and devoted himself with industry, during the next twelve years, to the practice of the law, not holding any office; but he could not lose his interest in politics and invariably took an active part in the local campaigns. He left Congress enraged with the subserviency of Northern Democrats to Southern political dictation and with an increased antipathy to slavery. At home the Democrats denounced him as an Abolitionist, while the Abolitionists thought him too much of a Whig. The Liberty party appeared as a feature for the first time in Maine politics in the contest of 1844, and a public discussion was arranged which lasted three days and was participated in by the Whigs and the Free Soilers. Mr. Fessenden was one of the Whig speakers, while his father, Samuel Fessenden, spoke on the other side.

Mr. Fessenden had consented to go to the legislature on account of important matters affecting the interests of the city of Portland, the granting of a charter to a company to build a railroad from Portland to Montreal. He was chosen and went to the legislature and assisted in procuring the charter. In 1845 the liquor question made its appearance in the Maine legislature and Mr. Fessenden took part in the discussion, but objected to several clauses as unconstitutional and subversive of law and the established principles of criminal law. The bill failed at this session, and Mr. Fessenden was fiercely

attacked as an enemy to temperance, virtue, and religion, but he was elected to the legislature the next year and assisted in perfecting the measure, which became a law. He received the Whig nomination for United States senator in 1845, but a Democrat was elected. During this time anti-slavery sentiment in Maine was growing. The Whig convention, through its resolutions, so shows, declaring against the introduction of slavery into any territory which might be acquired, and favoring the extension of the ordinances of 1787 over all the free Territories. Mr. Fessenden addressed the Whig State Convention, earnestly advocating the propriety of maintaining a firm and consistent adherence to the principles of liberty. He had by this time resolved to base his political action upon opposition to the extension of slavery, to abolish it in the District of Columbia, and to deprive it of any recognition by the federal government. In 1850 Mr. Webster made his 7th of March speech, and Mr. Fessenden expressed his opinion that the speech was a defection from the greatest cause which a public man could support.

A United States senator was to be chosen by the Maine legislature. Mr. Hamlin was a candidate for reelection. The Conservative Democrats wished to destroy him. Fessenden was urged to become a candidate, but declined to do it, fearing it might injure the prospects of Senator George Evans, saying that "it is important that Mr. Evans's influence shall, in no degree, be lessened." Mr. Evans was nominated as the Whig candidate. It was a long contest, and Mr. Hamlin was elected. In August Mr. Fessenden presided over the Whig State Convention, and a few days later was unanimously nominated for Congress by the Abolitionists. He was beaten, however, by the Democratic candidate. As the presidential election of 1852 approached, Mr. Fessenden and George Evans

were made the delegates at large from the Whig State Convention to the Whig National Convention at Baltimore, but by a unanimous vote instructed to vote for General Scott, which they did. Mr. Fessenden served on the committee on resolutions of this convention, and in that committee opposed the adoption of resolutions approving the compromise. On his return home he addressed a ratification meeting, stating, however, that his choice had long been Mr. Webster, but that he had seen that he must yield to the general wish for Scott. It is stated by the historians that Mr. Webster felt that he had been deserted by his old friend Mr. Fessenden, notwithstanding that he (Mr. Webster), "more than forty years before, had driven twenty miles in a snowstorm to stand godfather at his christening."

In the Maine state election neither party won. There was no election of a governor by the people. The legislature was divided into three parties: the Whigs, the Democrats, and the Anti-Slavery Democrats, the Whigs being in the minority. A United States senator was to be elected, and Mr. Fessenden was to be the Whig candidate, it was supposed. At this time he announced the view that the elements of the opposition to the reigning Democrats in the State might now be united into a victorious party. The legislature met. The regular Democrats could do nothing alone; neither could the Whigs. The Anti-Slavery Democrats held the balance of power, and the Whigs were beaten on the choice of the governor, so that it was supposed that the election of a Whig senator could not be brought to pass. The Whigs nominated Mr. Fessenden, who was elected by the Senate, but failed in the House by four votes. There was a deadlock for some time, Mr. Fessenden writing to a friend: "There never was a possible chance that I could be

elected to the Senate. . . . I have taken no active interest because I knew there was no use. It is so out of the range of probability that I shall feel no disappointment at failure." The result of the state election in 1853 was similar to that of the year before. The legislature assembled on the 4th of January, 1854, the choice of the United States senator still pending. This matter was taken up. The Democrats nominated Lot M. Morrill, the Whigs Mr. Fessenden. The choice of the Anti-Slavery Democrats was opposed to Mr. Fessenden. He was known, however, as a strong, able, and courageous man, and, while not an Abolitionist, a hearty anti-extension man. At this moment the Nebraska Bill, opening Kansas to slavery, was reported by Stephen A. Douglas to the United States Senate, and it stirred the North to indignation. It determined the Anti-Slavery Democrats in the Maine legislature to vote for Fessenden. They did so, throwing their votes with the Whigs and electing Mr. Fessenden to the United States Senate by a majority of ten. On the morning after the election the Democratic newspapers appeared in mourning, stating that William Pitt Fessenden had been elected to misrepresent Democratic Maine in the United States Senate. Outside of the State, however, the choice was well received, the "Boston Atlas" declaring Mr. Fessenden to be one of the soundest statesmen in New England and one of the ablest constitutional lawyers in the country. The "Boston Post" acknowledged his ample qualifications, and the "Kennebec Journal" of Maine thought his election was more than the triumph of party: that it was the voice of Maine against the repeal of the Missouri Compromise; "that they had sent to the Senate at this momentous period the man of all others who would best represent the views of the anti-slavery men upon that vital question, an able, eloquent

and energetic defender of the rights of freedom. He will worthily represent Maine in the United States Senate. Taking together the soundness of his views, his power as a debater, and his clear and full intellect, he will be the leading man from New England in that body."

SAMUEL FESSENDEN.

Before reading Senator Fessenden's career in the Senate it is worth while to take a glance at one of the sources from which he derived the qualities of courage and nobility of character which that perusal will show.

Samuel Fessenden, the father of William Pitt Fessenden, was the fifth son of the Reverend William Fessenden of Fryeburg, Maine, and was born July 16, 1784, graduated at Dartmouth College in 1806, lived for some time, as teacher of the village school, at Boscawen, New Hampshire at the same time studying law with Daniel Webster, who was practicing there. He was admitted to practice in 1809 and began in New Gloucester, Cumberland County, Maine, about twenty miles from Portland. He had grown to manhood and was of tremendous stature, being six feet tall in his stockings and of great breadth and depth of chest, trunk, and limbs. He had a deep and musical voice and noble features. He soon took the lead in the professional business of his neighborhood, and in 1822 moved to Portland. By this time he had become known as General Fessenden, the title being taken from his militia rank, and we will speak of him hereafter as General Fessenden.

He formed a partnership with Thomas A. DeBlois, which was successful, and for more than thirty years that firm was the leading law firm in the State. In the reports of the Supreme Court of Maine, which is the highest appellate court of the State, and in the reports of the United States courts of Maine cases, the name of Fessenden &

General Samuel Fessenden (Senator Fessenden's father)





DeBlois appears more frequently than any other. Sometimes General Fessenden was employed in the trial of every case tried during the term of court. It is a well-established anecdote that when trying one case he concluded that his client had no case, after the evidence was in, and stated to the court that he would not argue the case, as the testimony was so clearly all one way. The jury brought in a verdict in favor of the general's client, and the foreman, on being interrogated by him, replied, "Why, general, we thought as you said the case was all one way that you ought to have a verdict." His name appears in five hundred cases in the Maine Reports during fifty years, which may not seem a vast number to a busy metropolitan lawyer of to-day, with the stenographer, the law clerk, the rapid printer, and the quick and easy journey to the court. But when it is considered that this achievement was in the days when lawyers wrote their own briefs and it was a full day's journey by stage from Portland to Augusta, where the appellate court sat, without allowance for delays by reason of snowstorms or washouts, the achievement will seem more respectable. He was a man who believed in his clients and would never take a client unless he did believe in him. It is told of him, however, that after having successfully defended a man charged with counterfeiting, he told his client his fee was thirty dollars. The client said, "General, I will pay *you* in good money if I never paid anybody else," and handed him three ten-dollar bills, which were soon found to be counterfeit. His principal adversary in the courts, after Mr. Greenleaf had retired from practice, was his son William Pitt, the subject of this biography.

From the beginning of his career he was deeply interested in politics, though with the exception of occasional memberships in the legislature he never held office. His

political principles were obnoxious to the prevailing political party in the State. He took a keen interest, however, in public affairs, and was one of the first well-known men of the country to be entirely emancipated from the prejudice against color. In the cause of temperance he made many public addresses, but it was as a leader in the anti-slavery movement that he was most widely known in the United States. Long before the agitation began he was an earnest anti-slavery man. He was identified with the anti-slavery movement from its inception, always one of its supporters and advisers, sharing in its trials, its obloquy, and its labors. There were anti-slavery societies in the United States in the time of Franklin and Jay, favoring gradual emancipation, though they became inactive after the Missouri Compromise in 1820. The first abolition society was formed in 1832 in Boston. The first meeting of the New England society was held in 1833. General Fessenden was consulted about its formation. In the same year he assisted in organizing a society in Portland. The cause was unpopular. Public halls could not be obtained for its meetings and mob violence was often encountered. But upon all possible occasions, public and private, General Fessenden urged the duty of preventing the extension of slavery. From the time the old parties broke into fragments and the Republican party, made up of Abolitionists, anti-slave Whigs, and Democrats, came into power, and the struggle began, General Fessenden was one of its ablest champions, organizing societies, presiding at conventions, delivering addresses, and he was constantly a candidate of the Liberty and Justice and Free Soil parties and faced the howling mobs which these men first encountered. In 1844 he introduced a colored man to practice in the court, one Macon B. Allen. At a colored festival he was made the subject of the following toast: "General

Fessenden : though he has a white face he has a black heart." Frederick Douglass says of him : "I was at a public anti-slavery meeting at Portland. I began my speech and my words stirred up some opposition from fellows of the baser sort, who undertook to break up my meeting. When the turmoil was at its height, General Fessenden arose, and with his impressive dignity rebuked the turbulence, vindicated the right of speech, and secured order and decorum. He was one of the large brothers of the human race ; and I must not omit to say here as my recollection of this good man, that in the early days of anti-slavery, when I was yet newly from the house of bondage, when prejudice against color was rampant, and even took the form of malice, when the mad dog cry of amalgamation affrighted the souls of many, he was brave enough to make me a welcome guest at his fireside."

The Maine Anti-Slavery Society was formed in 1834. General Fessenden served on its executive committee, and on the committee to prepare its constitution. He also assisted in the formation of the Cumberland County Anti-Slavery Society, and while attending the meetings of the Maine society, serving on its committees and making addresses, he was president of the New England Anti-Slavery Society, in 1836, and presided at its annual convention in Boston. He feared slavery was a political danger that would destroy the country, while his religious belief made him dread the wrath of God. He gave all the time, and more than he could spare, from his active law practice to advancing the cause of abolition. In 1840 the movement among the Abolitionists to organize a political party took form. General Fessenden thought that the movement was premature, but was overruled by a small majority, so that the party put a national ticket in the field, — Birney for president and Earle for vice-president.

He earnestly supported the party, but the Abolition vote that year in Maine was only 194. In 1842 it was increased to 1662. It may be interesting, by way of anecdote, as showing the growth of the party in Maine, to quote that in one town in Maine there was one Abolitionist in 1840. He prepared his vote on a sheet of paper, the size of which caused some jeering, which led him to say, "It is big enough to hatch." And hatch it did. The next year there were twenty-four Liberty votes in the same town. In 1841 and 1842 he was president of the Maine Anti-Slavery Society, keeping on with his addresses wherever the opportunity arose. The vote of the Liberty party in 1842 had risen to 4080. In that year General Fessenden received from a Fourth of July meeting of the Abolitionists the first anti-slavery congressional nomination in the Portland district; and Mr. Willey, in his history, says: "It was the first year that a complete list of candidates for Congress was ever presented to the State by the Liberty party. At its head was General Fessenden, and the State had no nobler name." That year he attended the national convention of the Liberty party at Buffalo, and was its first vice-president. Mr. Torrey, in his account of the convention, speaks of the mighty speeches of S. Fessenden, A. Stuart, Rev. John Pierpont, S. P. Chase, and others. He kept up his work until 1845, when he was unanimously nominated by the Liberty party as its candidate for governor. He made speeches throughout the State, and in October was made president of a great anti-slavery convention in Boston, three thousand persons being present. He was the candidate of the same party again in 1846, and presided over a great meeting in Fanueil Hall in Boston. He was the Liberty party candidate again for governor in 1847, and was presented as its candidate for president in 1848. He saw the vote

of the party grow in nine years from 1847 from 7352 to 25,000; and throughout the coming years he labored with earnestness in the anti-slavery cause, and was the head of that party in the State of Maine until the Nebraska Bill united all the anti-slavery elements into one party.

He had eleven children, ten of whom he raised to manhood and womanhood, giving all his sons a good education, to which he devoted the resources of a large professional business, saving but little for himself, and finding the return of his investment in the prosperity and happiness of his children. Eight of his sons graduated either from Bowdoin or Dartmouth.

He died at the age of nearly eighty-five, in the home of his son, Charles Fessenden, where he had passed in happiness the winter of his life.

CHAPTER II

ANTI-SLAVERY SENTIMENT GROWING

1854-1859

THE day after his election to the Senate, Mr. Fessenden returned home to prepare for his departure to Washington. He was forced to spend a few days in Portland to arrange his affairs, which were crowded and in confusion, when he received urgent appeals to hasten to Washington to help in opposing the Nebraska iniquity. His friend, Israel Washburn, a member of the House, wrote on the day following the senatorial election: "I sent you three cheers this morning by telegraph, the same that Seward and old Wade and I gave when I communicated to them at Seward's house, three hours ago, the result of yesterday's work at Augusta. Pike (J. S.) is here, and happy. Badger says if Nebraska elected you, it has the merit of doing one good thing. In fine, we are all happy.

"Badger and Seward say the vote cannot be taken on the Nebraska Bill, in all probability, before the end of the week. There are many to speak upon it. Seward, Pike, and others say, and I concur with them, that you ought to come on in season to speak against it. They want a speech fresh from the people, a word from the heart of freedom."

Mr. Fessenden replied: "My affairs need so much looking after that I am desirous of remaining here until the middle of next week, if possible. I therefore wish to know whether the passage of the Nebraska Bill is a fore-

gone conclusion in the Senate, or whether my vote would affect it. If my vote would defeat it, I would take the next train if I left my house on fire." He arrived in Washington on February 22, and was sworn in on the next day, February 23. His first act in the Senate was the presentation of a petition praying that slavery might be prohibited in the territories of the United States. He had left Congress in 1843, when the reception of petitions against slavery was denied. Now they were received and ordered to lie upon the table.

The Senate at this time consisted of sixty-two members. There were thirty-six Democrats, twenty Whigs, two Free Soilers, and four vacancies. Chase of Ohio and Sumner of Massachusetts were the Free Soilers. The Whigs included thirteen from the Southern States, all of whom, excepting John Bell of Tennessee, voted for the Nebraska Bill. Some of the Southern Whigs became the most extreme in their demands for slavery, and were the strongest advocates of the Rebellion. Among them were Judah P. Benjamin and Robert Toombs, both very able men. There were also Badger of North Carolina, a great lawyer and a distinguished Whig; John M. Clayton of Delaware, a noted Whig statesman; James A. Pearce and Thomas G. Pratt of Maryland; James C. Jones of Tennessee; Henry S. Geyer of Missouri, and the two Kentucky Whig senators, Dixon and Thompson. Dixon was Henry Clay's successor, and bore a prominent part in destroying Mr. Clay's compromise of 1850.

The Northern Whigs included Seward and Hamilton Fish of New York, Foot of Vermont, Everett of Massachusetts, Truman Smith of Connecticut, Cooper of Pennsylvania, and Wade of Ohio. Of these Seward, Fish, Foot, Wade, and Fessenden as Whigs, Chase and Sumner as Free Soilers, and Hamlin an Anti-Nebraska Democrat, soon

became prominent leaders of the Republican party, then forming in the North though not yet organized, but gathering from the Anti-Slavery Whigs, Democrats, and Free Soilers.

The Democrats in the Senate were strong in numbers and ability. They were in the majority in the Senate without counting the Southern Whigs like Benjamin and Toombs, whose violent pro-slavery opinions soon made them prominent leaders of the Democratic party in the Senate. Of the Southern Democrats, Mr. Hunter was the first in senatorial experience and statesmanship, though Butler of South Carolina was the prominent representative of the pro-slavery oligarchy. The ablest Democratic parliamentary leader was Stephen A. Douglas of Illinois, a ready and powerful debater, overbearing and insolent to anti-slavery men, taking a position which favored and assisted the South. Mason of Virginia was conspicuous for his contempt for the North and his extreme views of the constitutional rights of the South. Jefferson Davis was in Pierce's Cabinet, and did not resume his position as a Southern leader in the Senate until two years later. As is usual in political revolutions, the boldest and most uncompromising in their purposes were soon recognized as the Southern leaders. The Whigs in the South who would not follow the extremists disappeared into private life.

Mr. Fessenden was forty-seven years old when he entered the Senate. In person he was five feet and ten inches in height, slender in form, with an intellectual face, and a high-bred and easy bearing. He was in the prime of his powers, and for twenty years had been one of the leaders of a very able bar. His natural talents had been trained and developed by habits of the severest study and by controversy with the ablest advocates. His great natural quickness never induced him to spare the most

searching analysis and patient reflection upon any question that was brought to his consideration. Fond of politics from the beginning of his career, he had been a careful student of constitutional law, the law of nations, and political economy, and he was excelled by no public man of his time in his mastery of those subjects. His speaking was easy and graceful in manner and clear and pointed in language. It was often remarked that he was one of the most agreeable speakers to listen to, as his words were so admirably chosen. He was lucid and simple in diction, with no ornament, but expressed the clearest thoughts. His dialectic powers were not surpassed by any man of that period. He disdained anything plausible or technical in reasoning, aiming only at exact truth. Mr. Blaine, in his "Twenty Years of Congress," describes him as "speaking without apparent effort in a quiet, impressive manner, with a complete mastery of pure English; that he preserved the *lucidus ordo* in his argument, was never confused, never hurried, never involved in style, that his speeches might be taken as models for clearness, accuracy of reasoning, felicity of expression, and moderation of tone, and that in these qualities Mr. Fessenden had never had a superior in the Senate." Elsewhere it was said that he was the ablest constitutional lawyer in that body since Mr. Webster. Mr. Pike, an experienced observer, pronounced him the greatest follower in debate since that greatest of orators. In a speech presenting for his State the statue of William King, the first governor of Maine, to the national capital, Mr. Blaine, quoting Lord Bacon's dictum that "reading made a full man, writing an exact man, and speaking a ready man," said that when Mr. Fessenden came to the Senate he was all three; that he was full, he was exact, he was ready. His face was expressive. Frederick Douglass, after watching him in debate, said he would

have made a great actor ; that while his language was parliamentary, his face expressed a scorn and severity it would not have been parliamentary to have put in words. His readiness in reply, with a courage and high spirit which warmed in debate, prepared him to take at once a position as a leader in the Senate. His powers of argument and sarcasm were stimulated by anger, and unlike most men, who are weakened by passion, he was, when roused by indignation or wrath, impelled to greater intellectual force. One of his critics said Mr. Fessenden's intellect was all feeling and his feeling was all intellect.

The conflict between freedom and slavery was believed by Northern Whigs and Democrats to have been settled by the compromise of 1850. By that measure the territory acquired from Mexico to the south of the line of the Missouri Compromise was opened to slavery. North of the line slavery was forever prohibited. Both the Whig and Democratic parties declared in their platforms of 1852 that the compromise of 1850 was a final settlement of the slavery agitation. Yet Douglas reported the Nebraska Bill, which organized the territories of Kansas and Nebraska, which were north of the line of the Missouri Compromise, and which permitted the people of those territories to adopt slavery if they chose.

The Nebraska Bill was received throughout the North with amazement. Those honest Whigs and Democrats who had believed the slavery agitation was settled, now saw that the North was to be deprived of everything it had received for consenting to the admission of Missouri and Arkansas with slavery, and for accepting the compromises. The Anti-Slavery Whigs and Democrats declared they would go no farther. Henceforth it was to be a struggle between freedom and slavery. Compromises were made only to be broken.

Mr. Fessenden was known to be opposed to the compromise of 1850, and to recognizing it in the national Whig platform as a final settlement. His strong anti-slavery opinions had led some conservative Whigs to be unfriendly to his election the previous winter. The Nebraska Bill created a desire to send an earnest anti-slavery man to the Senate who would boldly denounce the outrage about to be perpetrated upon the North. His election called out expressions of satisfaction from Abolitionists, Whigs, Democrats, and Conservatives.

The debate had opened a month earlier and was nearing its close when Mr. Fessenden took his seat. Mr. Fessenden was urged by the opponents of the bill to speak against it. He was reluctant to do so because of having so recently entered the body, and believing that the previous speeches had exhausted the subject. He was persuaded, however, that he ought to say something, and during the last night of the debate he took occasion to express the feeling in Maine against the measure. The opportunity came about one o'clock in the morning of March 3. Toward the end, in a colloquy with Senator Butler of South Carolina, Mr. Fessenden said "he had heard threats of a dissolution of the Union until he was fatigued with the sound." Mr. Butler replied that "if Mr. Fessenden's sentiments were to prevail, he wanted a dissolution right away."

Mr. Fessenden: "Do not delay on my account."

Mr. Butler: "We do not, on your account."

Mr. Fessenden: "Do not delay it on account of anybody in the North. We love the Union as much as you do at the South, but if we are to be threatened with dissolution of the Union unless the North yields in every question between the North and the South, it ceases to be a question for honorable men and freemen to decide. Such, sir,

are my views in reference to this matter. I have not spoken them so much for the Senate as for the purpose of giving expression to what I believe to be the sentiments of those I have the honor to represent on this floor. Whether right or not, time only can decide, and I am willing to abide that decision."

The speech attracted great attention throughout the country, and the reply to Butler, "Do not delay on my account," went through the North with electric effect. The tone of it seemed to the North to express its feelings. Mr. Sumner, later alluding to the incident, said: "Mr. Fessenden's arrival in the Senate was like a reinforcement on a field of battle. Those who stood for freedom were no longer fourteen, but fifteen. He did not wait, but entered the debate with all those resources which afterwards became so famous. Douglas, Cass, and Butler interrupted, only to be worsted by one who had just ridden into the lists. It could be found in the 'Globe,' but the 'Globe' could not picture the exciting scene: the senator from Maine, erect, firm, unmovable as a jutting promontory against which the waves of the ocean tossed in a dissolving spray, there he stood. Not a senator loving freedom who did not feel on that day a champion had come."

The letters to him, which have been preserved, indicate a great volume of commendatory feeling, assuring him that he had spoken thoroughly the sentiment of the North, and all concurred in expressing satisfaction at the manly defiance of the South and the determination to stop the extension of slavery at any cost. Many conservative Democrats and Abolitionists all declared their readiness to unite and act together on this platform.

This speech was the last one made in the Senate by the anti-slavery opponents of the bill. The vote was taken at

half-past five in the morning, resulting 37 for the bill and 14 against it. In the House the bill passed 113 to 100.

Mr. Fessenden writes, March 4, 1854: "You will observe that I participated in the debate on the Nebraska Bill. It was a speech which was made entirely without preparation or memo. of any kind at a late hour in the evening. The usual style of speeches here is not parliamentary debates, but set speeches carefully written out beforehand, the floor secured for a particular day, and the oration made and in type the next day. The fashion is a bad one and never makes good debates. I may have said some things imprudently, but I was resolved to make a clean breast of it and tell Southern gentlemen that their bluster would be useless with me. Some of the hottest of them came and shook hands with me and said they liked a bold and frank man if he spoke in good temper, as I did." To his father he writes: "There are a few noble fellows from the South who will do all they can to aid the cause of honor and justice, but they are few indeed. I can find some excuse for those who represent the slave power, but none for its allies."

May 14 he writes to his father: "We had quite a little splurge in the Senate to-day on the presentation of a remonstrance, signed by the New England clergy, by Mr. Everett. Douglas made a ferocious assault upon them. Never did I feel more disposed to fight, but my fear is that I may be thought too pugnacious and assuming for a new member. The man of all others that I like best in the Senate is Mr. Wade of Ohio. He is rough, but bold and honest. I wish we had more such men."

On June 4 he writes: "The Senate now receives a petition to repeal the Fugitive Slave Law as mildly as anything else. They have done growling for the present. I think a brighter day is dawning. The spirit of the

North can do anything, if it will express itself. The day of flunkysism is, I trust, over, and if so, there is hope for the future. The indications of the Northern sentiment have, I think, roused the slavery people to get all they can out of this slavish Congress, and God only knows what iniquities may be perpetrated. Pierce seems bent on destroying the country as well as himself."

In the latter part of April Senator Fessenden went home to try some law cases, returning to Washington early in June, but taking no part in the debates during the remainder of the session except to support the proposed Reciprocity treaty with Canada. In this he acted against the prevailing desires of the people of Maine, but he did it on the ground that the treaty was advantageous to the country as a whole, although affecting unfavorably some Maine interests. In July he writes to a friend: "You must look to see me the most unpopular man in Maine after Congress adjourns, because, first, I shall vote to give the farms to foreigners as well as to the natives, and thus draw down the wrath of the Know-Nothings, and then I shall vote not to give them to anybody; secondly, I shall vote for the treaty (Reciprocity) and thus enrage all 'Down East' on account of admitting lumber duty free."

On July 19 he wrote a mingling of politics and friendly chat, and alludes to his pet hobby (his garden) as follows: "I presume the glories of the garden have departed with the roses. Well, it was my own choosing to forego the pleasures of home for this empty life, and I have no right to complain. I do miss our Northern atmosphere and sigh for salt air and the fog. Perhaps there will be a cherry or two left. If not, I must content myself with a cabbage." Mr. Fessenden enjoyed the cultivation of a small garden at the back of his house, and his letters are full of allusions to it and inquiries about it.

The victory of the South in sweeping away the lines of the Missouri Compromise had been gained only in Congress; the contest was to continue among the people. The Nebraska Bill was the last straw to break down the conservatism of the North. Whigs, Democrats, and Free Soilers were now ready to throw off old party ties and unite. No sooner had the Nebraska Bill passed the Senate than Mr. Fessenden advised the formation of a sectional party at the North to prevent the further extension of slavery, writing innumerable letters about it and by word of mouth urging the scheme. His efforts aided in the result. The expiration of the Thirty-third Congress on March 4 enabled Mr. Fessenden to return to Maine in season for the April court, in which he was closely occupied until the last of May. From then until the election in September he was engrossed in preparing the new party for the state election. This work lay nearest his heart. It was an off year, there being no national elections. The new party was now fully organized, and, baptized as the Republican party, was to fight its first battle under that name, on the issue of no more slave territory. A glance at the history of the Democratic party in Maine on the slavery question will show how far it had departed from the high ground it occupied only eight years before.

In 1847 the Democratic State Convention, which nominated Governor Hubbard, adopted resolutions declaring the power of Congress over the territories, demanding that the Wilmot Proviso should be extended over California and New Mexico, asserting that slavery was at variance with the theory of the government, abhorrent to the common sentiment of mankind, and fraught with danger to all who came within its influence, and enjoining the senators and representatives from Maine to employ every exertion and use all their influence to procure the passage

of a law forever excluding slavery from California and New Mexico. Out of six hundred delegates to the convention, all but one voted for these resolutions.

The Republicans nominated Governor Anson P. Morrill as their candidate. His brother, Lot M. Morrill, at this time a Democrat, in a friendly letter on business to Mr. Fessenden, wrote: "You will be beaten, mark that. You fuse, we fraternize." Unfortunately this prediction proved true. But the Republicans had grounds for confidence. In July the party published its call for a great mass meeting in Portland. It was addressed to all citizens who desired to rescue the republic from its downward tendencies towards the extension of the slave power. A small convention of straight Whigs had nominated Isaac Reed for governor, and this movement was held up and supported by the great powers of George Evans. The Democrats had nominated Samuel Wells, and both Democrats and Whigs were fighting the battle upon state issues. The dissatisfaction with the prohibitory law and the anti-temperance riot in Portland had caused opposition and bad feeling, and these made the outcome of the election somewhat uncertain. The Republicans hoped to produce an impression by the size of their mass meeting in Portland, which was to inaugurate the appearance of the new party. A numerous body of distinguished speakers was announced to be present. Senator Wade of Ohio, a most effective speaker on the stump, had come to visit Mr. Fessenden and give his aid in the campaign. He expressed some fears that he might not succeed before Eastern audiences, but his vigorous style secured the delighted attention of the great meetings which heard him. Among other noted men announced were Senators Hale and Bell from New Hampshire, ex-Governor Cleveland and Senator Truman Smith from Connecticut, B. F. Butler, John A. Dix

from New York, and N. P. Banks from Massachusetts. From Maine were Mr. Washburn, Governor Morrill, ex-Governor Kent, and Senator Fessenden. An enormous crowd assembled in Portland on the day of the meeting, making it the greatest political gathering ever known in Portland. It seemed as if the country districts had poured their entire adult male population into the city. During the forenoon three meetings were held at different halls in the centre of the city, where speeches were made by Banks, Washburn, ex-Governor Kent, and Senators Hale and Fessenden. In the afternoon the crowds were so great that another great meeting was held in Deering's Grove, where Senator Wade delivered a stirring and eloquent speech. He shocked the old Whigs by declaring in forcible, if not polite language, "the Whig party is not only dead, but it stinketh." Another meeting was held in the evening in the principal hall in the city, when Senator Bell of New Hampshire delivered a manly and convincing address. The day was pleasant, everybody was in the highest spirits, and the occasion seemed a good omen for the triumph of the Republican party. Following up this great meeting, the Republicans made strenuous efforts to carry the State. Many able anti-slavery speakers addressed the citizens at various points throughout the different counties. Mr. Fessenden spoke constantly at places scattered all over the State. He was invited to deliver a Fourth of July speech at Damariscotta in Lincoln County, a conservative stronghold. He replied that he would speak if the citizens would accept a political address upon the great question before the country. This was accepted, though some of the straight Whigs and Democrats objected. The speech was a historical presentation of the growth of the slave power, and the change from the policy of freedom adopted by the founders of the republic to the extension of slavery

into a national and political institution. This speech contains such a lucid, concise, historical narrative of the slavery question that it is deemed in place here almost verbatim : —

Mr. Fessenden said that the United States, unlike the other great powers of the world, had the benefit of its annals from the beginning of its history. The deeds and motives of the fathers were open before them. Every wise provision of the Constitution had its written history. Time had shown that the foundations of the republic were laid deep upon the principles of mutual rights. Their heritage could not take care of itself, and it was their duty at any sacrifice to transmit it unsullied to future ages.

The great principle of their political system was the largest liberty of thought and the greatest freedom of individual action consistent with social order. Man was to be governed in order that he might develop his own purposes and minister to his own happiness in his own way.

They might well indulge in pride in their country. In three fourths of a century their country had outstripped all others in the elements of greatness. He would gladly enlarge upon their progress. He would only remark that great physical power could not exist without corresponding intelligence. In the number of its educated white people the nation was second to none. This fact alone should prevent them from betraying the sacred trust received from the fathers.

Behold the country at the close of 1815. By the purchase of Louisiana from France they had acquired both banks of the Mississippi and had extended their territory to the Pacific. By a peaceful acquisition from Spain they

had obtained Florida and the shore of the Gulf. They had disputed the supremacy of the seas with Great Britain, and proved their independence of her workshops. It seemed that if they could only adhere to the principles at the foundation of their government, no human power could check their progress. Upon the general policy of the nation there were but slight differences of opinion. Party divisions were so feeble that by the time of Monroe's administration party spirit had died out.

Yet at this very period a cloud was rising in the sky which was to darken the political heavens. It was the institution of African slavery, which was the cause of a singular anomaly in the national compact. To that could be traced all of our evils.

African slavery had originally existed in all of the thirteen colonies. But in most of them its existence was feeble. Only in the Carolinas and Georgia had it become strong. The fathers saw that it presented an obstacle to national growth. The government they proposed to establish was to secure the blessings of liberty. They saw that slave labor was not meant for a country complete within itself. Slavery must be confined to agriculture, while their policy was to create a people great on all the lines of material wealth. They wished to elevate labor. They therefore wished to do away with this great evil as well as shame and inconsistency. They failed because South Carolina and Georgia declared they would reject a union on such terms. It was a dangerous crisis. Overborne by threats of disunion, the fathers yielded and "compromised." It was the first compromise. Would it had been the last. They recognized the existence of slavery, but not in words. They provided for the extinction of the slave trade at a future day. They bound the government not to interfere with slavery in the States. They provided that no State

should pass laws to prevent the recovery of a fugitive from labor, and they gave the slave owner greater weight in the government by an increased representation based upon property in slaves.

In justification for this it should be said that it was believed that slavery would soon disappear, that it could not be extended beyond its existing limits, and the vast Northwestern territory was dedicated to freedom. It was believed that powerful free States would come from it, and slavery would disappear, leaving the United States a light to nations.

But this was not to be. The clause in the Constitution giving representation to slaves gave power to the slaveholders. The peculiar productions of the Southern climate made slave labor profitable. The institution grew in strength. An oligarchy was growing by the side of the free States which was soon to subject the national interest and national effort to its own sectional aims.

An unlooked-for event had greatly increased the slave power. This was the purchase of Louisiana in 1803. Slavery existed there under its former owners. Few thought about it and little objection was made to the admission of Louisiana in 1812. Florida was purchased in 1819. Thus two slave States were secured to disturb the original understanding.

It was now seen that the political system of the slave States was at war with free institutions; that the planting interests were opposed to the legislation required for free labor, and that for manufactures and commerce slavery was unfitted; that slavery and freedom were discordant, and if labor was to be the basis of the country's prosperity, it must be free labor.

The contest soon came. Missouri, formed out of the Louisiana purchase, applied for admission as a slave State.

At the same time Maine, a portion of the old thirteen States, standing in the same condition as Kentucky and Tennessee, which had been already admitted as slave States without objection, applied to come in as a free State.

The free States now perceived the danger of the ascendancy of the slave power, and protested against the further extension of the slave power. But they contended with a united foe. The slave power, concentrated in effort, threatened that the Union would be dissolved. The North wavered and yielded. For the second time it compromised between right and wrong, a compromise which violated still further the original understanding that slavery should be confined within its original limits. This compromise gave at once to the slave power two States, Louisiana and Missouri, and two more, Arkansas and Florida, in after years, and dedicated to freedom in the unknown future a wilderness roamed over by savage tribes. So this unequal and wicked compact was made. It was avowed to be a legislative compact binding upon the national honor between the North and South. It was hoped that the limits of slavery were irrevocably fixed.

During the next twenty-five years no great historical event occurred. Old parties were broken up, new ones succeeded. New issues arose and passed away. Two remained on which political contests continued. These were internal improvements by the general government and the protection of national industries by duties on imports. The slave States were united against both, and those States have controlled the legislation of the country. The interests of the free States required a protective tariff. The interests of the slave States were opposed to it. The Western Democracy went with them, for the West at that time had no manufactures. The South op-

posed internal improvements, for internal improvements required revenues, and revenues involved increased duties and protection. But to the Western States internal improvements were of vast importance. Consequently they were not made party questions in legislation. The interests of the North and West together demanded protection and internal improvements. The protective system was adopted in connection with internal improvements, and then, for the third time, the slave power threatened to dissolve the Union. South Carolina threatened civil war. Again the free States yielded, and both systems were broken down. The South by its union and single interest carried its point. There seemed to be no North. Party ties waxed weaker. Men seemed disposed to stand still and let time show whose predictions were to be verified.

And time did show. A prostration of business affairs followed, which brought into power a President and a Congress in favor of protection and internal improvements. The protective tariff of 1842 was passed, and it restored prosperity to the country. But the President died, and a Southern man became President, who proved false to the principles on which he was elected. The election of 1844 restored the South to power and again destroyed the policy of protection and internal improvements. The interests of slavery again became predominant.

Though the slavery interest prevailed in 1844, it prevailed against public sentiment, which was in favor of protection; but it prevailed on a new issue. This issue was an expansion of slave territory by the admission of Texas. This broke down all questions of free State policy.

Against the admission of Texas, the North again protested. It was large enough to make four great States. The North with its white population of more than two to

one in the South, had no more States in the Union than the slave States. Texas would make another with two more senators. Contrary to all precedent, and by a new mode of proceeding, Texas was admitted by a joint resolution, and a fifth slave State from territory not in the original Union was admitted.

Thus five new slave States out of territory not in the Union when the Constitution was established were added to the dominion of slavery. No free man who lived by the labor of his hands could go there without degradation. Notwithstanding the ordinance of 1787, which devoted all the common territory to freedom, the slave power now had the largest territory, and covered the richest of our lands, and this, too, under a government established to diffuse the blessings of liberty.

But there was another chapter of aggression to follow. The war against Mexico ensued. She was conquered, and she paid for this country's expense of blood and treasure by giving up her land. A territory large enough to make four States was surrendered. It was free soil, for slavery was forbidden under the law of Mexico. The excuse for gaining this territory was that it would extend the area of freedom.

It was natural to hope that this free territory thus acquired would remain free. All former acquisitions had increased the area of slavery. Five new slave States had been admitted. Slavery had more than half the territory of the Union. An attempt was therefore made to extend over this free territory the ordinance of 1787, which secured freedom to the Northwest Territory. Again the South threatened disunion. It was then first discovered that the prohibition of slavery was unconstitutional, forbidden by that Constitution established to secure the blessings of liberty. It was asserted that white men had

a right to hold slaves in free territory, and then make a constitution to rivet their chains. In the height of this agitation, California applied for admission as a free State. This was not the kind of self-government which the slave power had bargained for. The South resisted her admission, and once more threatened disunion. It was successful, and again was seen a compromise of right with wrong. California was permitted to come in, and the Union to exist, upon condition that the residue of this free domain should be open to slavery, and that a new and bloody and base fugitive slave law should be passed by Congress. This was the compromise of 1850 to which the North yielded for peace.

These aggressions had been perpetrated by a handful of men. Out of twenty-one millions of whites, there were only 350,000 slaveholders. These were the lords of the soil. Their wealth and power ruled their States. Their concentrated power ruled the entire land and held the Union in its grasp. The free labor of the North and West labored in subserviency to this interest, or the stars and stripes must be scattered and separated.

After this compromise, freedom once more appeared to acquiesce. But there was serious irritation. The last tightening of the cord had worn into the flesh. Party subserviency had gone as far as it could go. But it was believed that harmony would not again be disturbed. All was peace. A new President was elected who pledged himself against all sectional agitation. Suddenly a senator from a free State introduced a bill to organize the Territory of Nebraska, which was north of the line between freedom and slavery, which repealed this line, and permitted slavery to go into the territory pledged to freedom. This was the territory which, of all the acquisitions by purchase or war, had been reserved for

free labor. For this the South had received an equivalent, three States, — Louisiana, Missouri, and Arkansas. A Southern senator proposed an amendment to the bill repealing the line of the Missouri Compromise, violating the compact, and tearing away the last hope of freedom. This was accepted. The measure was supported by the united Southern Whigs and Democrats. They all upheld the outrage. If successful, the measure would secure the ascendancy of slavery. A New England President supported the wrong. A few senators from the North opposed it vainly. It was forced through at night, modified to establish two territories, and against the protest of the Northern people, who were betrayed by some of their own representatives.

Such was the history of the aggression of slavery of which the last act was the consummation. There could be no more trouble about territory, for now slavery had it all. All that remained for the North to do was to fold its arms, see new slave States admitted to the Union, and receive the law as the slaveholders chose to enact it.

The lame excuse for this measure was the right of men to govern themselves — popular sovereignty, as it was called. Without dwelling upon the national and constitutional duty of the government to regulate the weak and infant territories, it was enough to say that this sort of popular sovereignty meant the right of one man to hold another in slavery. Free labor was to be subject to the interests of cotton and tobacco. The reward for the North was permission for its ships to carry these productions to market.

Mr. Fessenden then animadverted upon the defeat of the effort to make Kansas a free State by the invasion of the border ruffians from Missouri and their seizure of the polls; of the failure of the government to check and

punish such proceedings; of their indorsement by the slaveholders; of their boasts that Kansas should be a slave State; of the indorsement of the administration by the State Democratic Convention and its refusal to express an opinion upon the repeal of the Missouri Compromise. He declared that men should now lay aside minor issues and party divisions and unite to save the republic. He had no time to speak of the design to wrest Cuba from Spain for another slave State, nor of the proposition to restore the slave trade. He would not speak of the Fugitive Slave Law, so oppressive that the state courts had been forced to interpose to protect their citizens. To break down this last barrier of freedom, the Senate in its last session had passed a bill taking such cases from the state courts and providing for their trial in the federal courts only. He would not infringe the provisions of the Constitution. He would concede its rights even to slavery. But free labor should be protected and respected. The rich territory which belonged to freedom should be preserved for the free mechanic and the free husbandman. If he could not have this but at the expense of the Union, he would part with the Union and trust to time for another and a better.

For the cause of freedom he was ready to welcome every man of every party. He was no Abolitionist. But he was for free soil. If the country was to be subjected to the slavery interest, then the great experiment of free government had failed. As an American senator he considered this to be the great question. Were they now to be told that labor was degrading, that they must work at the will of others, and though the country was theirs, they could not share in it in proportion to their numbers? The remedy for this was union among themselves. They must forget party names. They should come together as men,

and if they thought alike they should act together. They should choose their public servants with reference to this great purpose.

He could see but one path of safety, to carry out the compromises in good faith but make no more ; to insist that slavery be sectional and freedom national ; to have no more slave territory under any circumstances, and that Northern labor should have its rights. The work was to be done by union at the polls. Men of all parties should unite to show that equal rights were dearer than party names. He would acknowledge no party but that of equal rights for the free States and the protection of free labor. He was ready to stand or fall with it.

He deemed it appropriate on this Fourth of July to call upon the freemen of Maine to abandon party and proclaim that freedom was their inheritance, and to resolve it should never be wrenched from them. Why should they not do so ? All parties in the South had united to support the institution of slavery. The rights of Northern labor demanded their aid, and it should be given.

The straight Whigs and Democrats complained of this address as being too much of a party speech for the Fourth of July. But nobody was obliged to listen to it, as it was well known in advance what its character was to be. The committee in announcing it stated that the speaker would be accorded the largest liberty in speaking of men and measures and remedies for existing evils in national affairs, and that he would be expected to discuss some of the political issues before the country. The great majority of the listeners were delighted with the address. The leading Democratic newspaper of the county, the "Lincoln Democrat," attacked it for being a political speech and unfair at a citizens' celebration.

Most of the Whigs had become Republicans. A few of the old leaders with a small following held up the skeleton of the old party before the people. They presented nominations and a platform. In compliance with the request of a majority of the former Whig State Committee, Mr. Fessenden prepared an address of the committee to the Whigs of Maine in reply to the straight Whig platform. It stated the public question at issue, and criticised with point and force the declarations of the straight Whigs.

The efforts of the Republicans did not result in the victory that was hoped for. A portion of the people were not yet ready to abandon their old party affiliations. The quarrels and dislikes engendered by the new temperance legislation were too recent to be forgotten. The Republicans failed to elect their governor, and lost the legislature. Yet there was consolation even in their defeat. The Republican vote was the largest. The vote for Governor Morrill was three thousand heavier than the Democratic vote, while the Whig vote was hardly more than a fifth of the Republican. And whatever might be said after the election, it was plain enough before election that the Democrats and Whigs fought the campaign on local issues. Their speeches, their arguments, their points, their appeals, were all based on state matters, and avoided as dangerous all national questions. In the mean time the great movement was going on in other States. The anti-slavery Whigs and anti-slavery Democrats had united to form the Republican party. Vermont had already declared itself a strong Republican State. In New York Seward and Weed had become the leaders in the new party. Massachusetts was evidently soon to be a Republican State, in spite of the efforts of the old line Whigs to preserve their party organization, and the complications of the Know-Nothing excitement. Ohio placed itself in

the Republican column by an enormous majority, and elected for its governor Salmon P. Chase.

The result of the election in Maine was a heavy disappointment to Mr. Fessenden. He had hoped that the people of his State were ready at last to unite and throw off the party which had ruled it so many years in the interest of the slave power. But another year of effort and of outrages in Kansas were to be required before the anti-slavery triumph in Maine was to be secured. Writing to his cousin soon after the election, he said : —

“ You wonder why I have been so much engrossed in the election just passed, as I had no immediate object to accomplish. Perhaps you will not readily believe that no personal object whatever was before me. To have carried this election handsomely (so important did I consider it), I could have readily sacrificed my office and agreed never to hold another. We are beaten, however, and beaten by the folly of our friends. I did hope that Maine would have placed herself in the front rank of that great Northern movement which I believe to be essential to the future welfare of this country, and which lies, therefore, nearest my heart. Our miserable local divisions have destroyed that hope for the present. But I shall renew the contest from year to year until the battle is finally lost and all hope gone. As it is, the end is not yet.”

The matter was agitated in Maine in the next campaign, but there was reluctance on the part of each of the old parties to abandon its name. It was advised that the compromise elements in Maine should adopt the common name of Republicans. Senator Fessenden sent to Mr. Carter, an editor in Maine, a constitution for a political organization and a circular letter with a request to lay it before such members of the State Committee as were sound. It was for the formation of the Union Emigra-

tion Society to encourage emigration to Kansas by persons opposed to slavery. In a letter to Mr. Carter which accompanied the constitution and circular, which letter was used effectively in a public manner, Senator Fessenden said: —

“The great mass of the Whig party is ready to meet the issue thus presented. The old Democracy of the Union has taken ground as an organization wholly against freedom. The whole power of its party organization will be exerted to maintain its position, but the leaders of that party in the free States have in this mistaken the feeling of the masses and have found themselves in those States left in a strong minority of former friends. On this great issue, Whigs, Free Soilers, and Democrats think alike and are ready and willing to act together provided they can do so on equal terms and without reference to any points of difference formerly existing, thus bringing the universal and mutual weight of their respective parties’ efforts to operate in one direction and conduce to one result. . . . If so, the main questions are, Is the great principle on which men of different parties are united in sentiment paramount to all former issues at the present time? All of them, I think, will concede this. Again, Is it strong enough to bear us up in disregarding former party associations in selecting its exponents? I fully believe it to be so. If not, the free States may as well surrender themselves. . . . While, therefore, I am willing that political organizations as they now exist may be used as a means to accomplish the great end, they should never be made to constitute the end itself. Win the fight, and let the conquering army shape itself on principles and with reference to results accomplished and to all engaged in the struggle. In this contest I would welcome the aid of any man who has a heart for equal

rights, come from what quarter he may; and the greater his personal risks and sacrifices, the more credit and glory I would award him. I inclose you a letter. Of course it is for your private eye, and not to be made public in any way. I agree that nothing is to be hoped from Democratic leaders, but we have everything to hope from the masses and the leaders must follow or fall."

In Maine, on September 8, he addressed a mass meeting at Limington, saying: "I do not address you as Whigs or as Free Soilers or as Democrats, but as American citizens who have human hearts in human bosoms. I ask you whether all these party jealousies we have had before are to overcome this great question which lies at the foundation of our national prosperity; whether we, by our want of action, are to agree that this dark cloud shall hang over us. Strike out this party dissension and the desire for this man or that man for office, and the people in this State who favor the existing condition of things are not the majority, if you could get at their real sentiments. You have, most of you, belonged to some party. And for what purpose? Because you desired to accomplish some good purpose; to do something for the benefit of the people. When a party becomes powerless to effect that object, is there anything binding on me other than to devote myself to accomplishing a good purpose in the manner most likely to effect it? If I wish to extend the limits of human freedom or to restrain the limits of human oppression, am I to be bound down by a mere party? No. What am I to do when I want to carry a great principle which I hold to be far above all these party conditions? . . . With the present issue before the country I am willing to unite with any set of men who desire to accomplish a good purpose and who will take hold and help me, and I will not ask him if he is a

Democrat unless he asks me if I am a Whig. Act, then, like men, and above all like free men. I say that the man who thinks as I think on this great question of the day, and is ready to act as I act, belongs to my party and I belong to his. Lay aside, then, all little matters of difference if you would curb or break down this rampant power of slavery."

In addition to making very numerous speeches at this time on this question, he added the labor of writing personal appeals to the congressional candidates to sacrifice their personal aspirations and to unite on one candidate against the common enemy. This was finally accomplished. His letter to his friend J. S. Pike, who was working to effect a union in the eastern district, gives an idea of his labors.

What has got into A. and C.? Is this the time to quarrel and get their party beaten and themselves politically damned? Both of them desire to thrash the slavocrats I take it, but it is very clear that only one can be the chosen instrument.

Isn't it strange that where only united effort can accomplish anything, men seem most disposed for discussion? We shall be all right in this district and elect Wood. In the second district, Gilman's friends are, some of them, behaving badly, and are resolved to have their friends whipped. Pretty patriotism that! Farley is ruined, and his district lost by his last foolish vote on Elliott's motion, and so-called Whigs are doing all they can to defeat us in Penobscot. Is it not provoking that with men enough to sweep the State clean we should be beaten by the utter folly of men calling themselves Whigs?

But you are on the spot, and must see that things go right in "Away Down East." Seward will hold you per-

sonally responsible, and he is a fighting man. Wade was ready to shoot that "organism" you spoke of, if he deserved to be shot, and I will set him on you if you don't carry the "fifth" all hollow.

We look to Washington, Hancock, and Aroostook for one representative to Congress, five senators, and representatives to the legislature too numerous to mention. I mean to settle the difficulty in the second somehow, if I sleep with the whole district.

Your friend always,

W. P. FESSENDEN.

The combined factions united for anti-slavery and won a great victory, making Maine one of the earliest of the previously Democratic States to give evidence of the mighty change.

The last session of the Thirty-third Congress began December 4, 1854, and ended March, 1855. During this session Senator Fessenden opposed the proposition to make the Supreme Court merely an appellate court for questions of law, sitting in Washington and performing no circuit duties, stating his idea to be that judges were preserved from deteriorating by participating in trials in different parts of the country and by coming in contact with other men in callings other than legal. He also participated against Douglas in the debate on a judiciary bill providing for the removal from state courts into the United States courts of suits against United States officers for acts done by them under any law of the United States. Its design was to protect officials,—the persons assisting in the execution of the Fugitive Slave Law,—the United States courts being regarded at the time as the safest tribunals for those who had violated the state laws.

The bill was one of the last on the calendar, but it was

brought forward at almost the close of the session with the purpose of forcing it through, though everything else should be delayed. Mr. Chase at once commented on the favor always shown by the Senate to any bill in the interests of slaveholders, and declared the bill was an invasion of state rights. This awakened a political debate. Wade spoke with his habitual boldness, calling attention to the spirit of resistance which the pro-slavery measures of Congress had stirred up in the Northern States. Douglas ascribed the recent Democratic defeats in the elections to the popularity of the Know-Nothing party. Mr. Fessenden, in his most incisive style, contested this assumption of Douglas. During the debate Mr. Sumner eloquently denounced the bill and moved a repeal of the Fugitive Slave Law. Mr. Fessenden was one of the nine who voted for the repeal. The bill was supported by Benjamin, Bayard, Jones, and others. Benjamin asserted that the aggressions always came from the North, and that Northern legislation on the subject of slavery had always been a direct war upon the South. Mr. Seward delivered an able speech against secret societies and disavowed all connection with the Know-Nothings. Henry Wilson made his first anti-slavery speech in this discussion. An amusing incident of the debate was the remark of Butler of South Carolina to Sumner that half his time the latter did not know what he was talking about. As Mr. Sumner was very temperate in his habits, and Mr. Butler, in the evening, was sometimes suspected of being otherwise, his remark caused much merriment. The debate lasted until midnight, when the bill passed by a vote of 29 to 9.

During his remarks Senator Fessenden said that "he wished the people of the Eastern States to understand that this new legislation was designed to deprive their

William Pitt Fessenden in 1854



courts of all vitality and all power to protect the rights of their own citizens where a question about a fugitive slave was concerned. The object was to deprive them of the power to grant the writ of habeas corpus, and put every question of similar nature under the exclusive jurisdiction of the United States courts and of the officers appointed and paid by the United States. Was it to be supposed that the enactment of such a law would not be resisted, and that some way would not be found within the limits of the Constitution to protect the rights of their fellow citizens when they were in jeopardy? Senators were mistaking the temper of the Eastern people. This measure would be taken as an intentional insult to the courts and people of the free States.

“In conclusion he wished to state that no man need impute to him that he meant to disregard the Constitution. He intended to respect it at all times. He understood the oath he had taken. But he would say to those who supported measures of this kind, that whenever they showed that their legislation was to be directed with reference to the slave power which now governed the country, he stood in the Senate to oppose them on all occasions, and he would stand at home to agitate upon the subject, and to convince the free men of his honored State that this measure was a renewed assault upon the honor and independence of the free States and the just rights of their people.”

Apropos of this debate he writes: “I am not sorry the slavocracy gave us another opportunity to stir them up. We do not seek for these occasions, but are ready to meet them, and they have learned at least that *we will be* heard whenever they chose to give us the occasion.”

The General Armstrong Bill, a bill to pay the owners of the privateer General Armstrong for the loss of the

vessel from its destruction by a British fleet in the neutral harbor of Fayal in the War of 1812, came up, and Senator Fessenden delivered in the debate on the bill a long opinion upon the legal questions involved. Mr. Fessenden spoke in the debate upon the jurisdiction of the Court of Claims, and then spent some time preparing to argue an important case in the Supreme Court at Washington and argued the case. During this session he was indulging somewhat in the social pleasures of Washington, writing home that he had dined with the different great men at the homes of some.

To his son he writes from Washington, December, 1855: "Politics here are in a terribly mixed state, and it is difficult to form any reliable opinion as to what this Congress will do. Nominally there is a majority of men opposed to the extension of slavery, pledged to oppose it. But in many instances the people have been deceived, and have sent here weak, if not treacherous, men. This has developed itself in the attempt to elect a speaker. I think, however, Mr. Banks will be elected soon—perhaps to-day. Other questions will not afford the same facilities for making false issues. My belief is that the free state party will be stronger upon any other issue than the election of speaker—and this very struggle will tend to concentrate what there is of free sentiment. Events are fast bringing the Republicans and Americans from the free States to the conviction that neither can do without the other. The slaveholders will be satisfied with nothing from their allies but an unconditional surrender, and this they will not obtain except from the Democrats—who have yielded long ago.

"I find it terribly dull here, and were it not for the necessity of studying law a little, I should be out of business. Home is a much more agreeable place, and I

sometimes envy you all the society of each other. This serving one's country is a hard life, but it is fortunate that nothing but personal experience will ever satisfy any one of the fact."

He was very busy at this time with the matters before the committee on printing, striving for economy and objecting to the printing of much which was suggested. This interesting passage appears in one of his letters at this time: "It amuses me to see what boys we are; no man makes a speech without expecting his friends to congratulate him and being as fussy as a schoolboy after speaking a piece at an exhibition. I do not know that you will believe me when I tell you how flat and wearisome this life is to me; but if it were not so, then should I be the most insensate of all foolish mortals and undeserving the happy fireside God has blessed me with. If you ask why did I leave it, the answer may be found, perhaps, in that perverse and uneasy spirit which leads me—nay, most men—to reject the true for the false, and sacrifice the real for the unsubstantial."

The senator, during a part of the year 1856, was suffering the greatest sorrow and anxiety on account of his youngest son, Samuel, a mere boy, who was hard to control and not satisfied to stay at home and study. He was the one who afterwards gave his life in his first battle, just after reaching his majority. The boy had run off, and nobody knew where he was. Word came finally that he was out in Kansas, and the senator asked a Western friend to hunt him up and locate him. It took a long time to do it; and at this time Kansas was the scene of lawlessness and frequent murder, because the Free Soil Northerners, who had come to Kansas, and the slavery sympathizers, who had swarmed in there from Missouri and other Southern States, were keeping the Kansas territory

in such a state of lawlessness and disorder that the term "Bleeding Kansas" became much in vogue. After a while, though, the senator's anxiety was relieved. The boy was located in Canada and induced to come home; but it was easy to induce him to come home, because he was tired of wandering, and had already written out an account of his adventures, and had written a letter to his father in which he was intending to send the account. The account has been preserved, and the senator often enjoyed, in after years, when Sam was dead, reading it or showing it with considerable pride, because he thought that, for a young boy, it was a very good literary composition; and as it shows, from an eye-witness, something of the conditions of Kansas at that time, it is here inserted:—

"In the summer of eighteen hundred and fifty-six I took 'leave of absence,' without permission from anybody, to make a short journey to our Western States. After knocking about in Illinois and Iowa for a short time, I resolved, if possible, to make my way to Kansas, join Lane's forces, and rush into exploits of some kind, the more dangerous the better, I thought, and looked around for an opportunity of acting on my resolution. But how to travel there without gold, silver, or bank bills I scarcely knew. Fortune, however, had given me a large amount of coin very current in the world at large, yet known by the rather vulgar name of 'brass.' This was my only capital, and my clothes, save what I had on, were long since in the possession of that obliging individual yeleft 'Uncle,' who will lend very small amounts of money on very large amounts of good collateral security. So I fell back on my last resource, and without waiting, as Mr. Micawber was wont to do, 'for something to turn up,' left Dubuque in a steamer bound to St.

Louis, after making an arrangement with the captain very satisfactory to me and highly honorable to himself. Down the Mississippi we steamed day after day, the scenery growing more and more beautiful—my shirt, my only one, becoming more and more dusky. On a Sabbath morning, at the hour when the church bells were chiming out over the quiet waters summoning the minds of mortals to thoughts of heaven and God's love, calling them away from worldly cares and troubles, we entered St. Louis. All along the quay, so crowded and busy on a week day, silence reigned, and, save here and there a loiterer, it seemed entirely deserted.

“But not more desolate and silent, not more lifeless than my heart, as I stood on those streets without money, without friends, and let my thoughts wander back hundreds of miles away to one family hearthstone, where stood one vacant chair, made so by my thoughtlessness. How I longed again to fill that chair, again to hear the music of loving voices, again to listen to loving words welling up from the depths of loving hearts, again to see friendly faces, to sit once more at the feet of my mother and feel again a father's hand laid upon my head as if in blessing. But my pride, false to every true principle as it was, would not allow me to give way to my better feelings, and I steeled my heart against those whisperings, which spoke to me of outstretched arms awaiting me at home and ready forgiveness for the returning wanderer; and though the tears would flow, I determined to ‘gang my own gait’ to the bitter end. When I look back and reflect upon that time, I am astonished that my will was so strong and my determination to succeed so fixed before I would allow myself to think of a return. I knew it might be many years, I knew that in my heart I was a boy of strong affections; but my mind was fixed upon an

object, and though undoubtedly under the influence of wrong and thoughtless notions, I had started on my course, and pride whispered to my heart, 'It will be disgraceful to back out now—press on, many have succeeded, and your chance is as good as theirs.'

"I need not relate in what manner or with what deception I remained in St. Louis for four or five days. I lived well, obtained new clothes, looked around the city for employment, relinquishing for a time, at least, the Kansas project. Providence kindly raised up friends for me, and saved me, perhaps, from a worse fate, for in my state of mind at that time I might not have been scrupulous at all in undertaking anything which should furnish food for my body and raiment for my back.

"But the season was dull, clerks were not needed, and again my mind wandered back to thoughts of an adventurous life in Kansas, of exciting forage against Border Ruffians, to dreams of success at last, and then a happy return home. Foolish thought! still more foolish dream! The tide in my affairs which was to lead me on to fame and fortune was not yet at hand, and I must still wait. 'Labor omnia vincit' I found to be a true motto, and my perseverance enabled me to obtain at last a passage up the Missouri as far as Sioux City, and I accordingly started, having obtained from various sources the amount of three dollars for necessary and contingent expenses. The journey seemed long and tedious, and my time was spent in watching the passengers play 'euchre,' running upstairs to find our boat stuck fast on a sand bank, looking at a few plantations on one side of the river, and lying on the deck in the evening trying to keep cool. Nothing of interest occurred until the fifth day of our captivity upon the boat, when one of the passengers with whom I had become acquainted led me aside, and

began to catechise me in relation to slavery. Thoughts of a coat of tar and feathers, and of being placed in some small boat to drift down the Missouri, rushed instantly through my mind, and not desirous of a martyr's fate, I answered with caution. The whole truth came out at last, and I learned that there was on board a company of twenty men from Illinois bound to Kansas, and if I wished it, I could join them and link my fortune with theirs. As my fortune was exceedingly small, and by this arrangement my passage was to be paid into the Territory, and as I should then become owner of one Sharpe's rifle, which I was expected to use in the cause, I did not hesitate, and subscribed to the articles under a feigned name. We were passing through the enemy's country, and it behooved us to be vigilant and cautious. On one side of the river lay Missouri, full of 'border ruffians,' and cutthroats from other Southern States, 'the drunken spew and vomit of an uneasy civilization,' as they have been termed, and on the other Iowa, as yet unsettled and untilled. Arriving in the night at Liberty, Missouri, where a fortnight previous seventy men from Chicago had been sent back, after being plundered and robbed, we laid on our arms, determined every man of us, and I might add, every boy of us, not to be sent back without first having a fight about it. All went well, however, and we drew our breaths more freely as we left the wharf and shot up the river. Our captain and some of our chief men then held a consultation, and after some conversation came to the conclusion that we had better pack up our rifles in bags, and pass ourselves off, if possible, as men entirely independent, and as peaceful settlers in the Territory.

"On the morning of the 3d of July we passed the boundary line which separates the State of Missouri from the Territory of Kansas. Soon in the distance we caught

sight of Kansas City, and before nine we had reached it. At this point the first intimation of danger was received by the accession of some twenty-five men, armed with revolvers and bowie-knives, to the number of passengers. Nothing, however, transpired which could lead us to suppose that our plans were known, and we arrived at last, about noontime, at Leavenworth, where we were to disembark and proceed thence to Lawrence. As yet all remained quiet, and there seemed no unusual bustle or commotion on the levee where we landed.

“No opposition was made, and we thought to get through without trouble; but how mistaken we were, let events show. No sooner had we arrived at the warehouse to which our goods were consigned than out of every grocery and groggery poured a motley crowd, some armed with U. S. muskets which Shannon, drunken governor of that Territory, had given them, others with bowie-knives, revolvers, and all sorts of firearms, and we found ourselves surrounded, and had we been armed it would have been madness to resist. We surrendered, and search was commenced for our rifles, or any other arms we might have.

“Soon they were discovered, and then came a shower of oaths mingled with threats and menaces. I was the youngest of that band thus surrounded, robbed, and subjected to any amount of abuse, but I thought myself shrewd, and accordingly assumed an air of perfect indifference, sat upon the top of a barrel, lit a cigar, and calmly watched the opening of trunks, valises, and everything that was supposed to contain firearms of a larger or smaller sort. While threats of hanging, lynching, and various other pleasantries issued from the mouths of chivalric Southern gentlemen, and as the search was drawing rapidly to a close, one of the chivalry approached me, and cried out, ‘Well, sonny, do you train in this crowd?’ ‘Yes,’ I an-

swered. 'I should think you was a cousin of mine, if you wa'n't in this company.' I informed him in a laughing manner that I was satisfied with my associates, and he muttered something about my being brought up in a wrong manner. At this moment some whiskey was brought in, and my Southern friend again addressed me: 'Here, sonny, hold my musket while I go and get a drink.' So I took the musket, continued my smoking, and awaited the return of my new acquaintance. Soon he came back and we resumed our conversation. After a while order was given that the prisoners should be led to headquarters, and so we were marched through a crowd of yelling and hooting ruffians, guarded by a band of fifty armed men, to another warehouse where 'border ruffianism' and whiskey reigned supreme. It was in vain for us to protest against the outrages, it was in vain we asked for our plows, axes, hoes, and other instruments for settling in a new country. We were willing to give up our arms, we merely demanded those rights which belong to every citizen under the government. But all in vain; they had decided, and back we must go down the river, home to Illinois, and the next boat should bear us away from that Territory which they swore should be filled with slaves, and thus consecrated to sin and darkness forever.

"So we remained shut out from the light of day, lying on old bags, deprived unjustly of property and liberty for the space of three hours, when came a boat in sight, and again we marched through the street, like felons, surrounded by a guard, down to the levee, on board the steamer, and were thus ignominiously sent back, sadder but madder men.

"So ended my adventure in Kansas, and I thought, as down the stream the boat made its way, of my home afar off, and friendly voices crying, 'Come back, come back,

and all shall be forgiven;’ but I drove away all thoughts of return, preferring rather to beg than to seek home now. My path was chosen. I dared not ask myself whither it would lead.”

The legislation of Congress at this time had been delayed by the long struggle to elect a speaker, but now a question of great interest had come up for discussion in the Senate, for the relations of this country with Great Britain had become somewhat strained, the two governments differing in the construction of the Clayton-Bulwer treaty, which defined the position of both in Central America. England had established a colony there which was thought in America to be contrary to the provisions of the treaty, and she had strengthened her fleet on the coasts of the United States. It was understood that the President would communicate to Congress the correspondence between the two governments relating to the dispute, but senators began to make war speeches before the time arrived for bringing the subject into public discussion. Mr. Fessenden writes about this subject that there were wars and rumors of war. “I think it is all nonsense. I have not been out since I wrote you, declining a dinner at General Webb’s at which were Mr. Crampton, Seward, Sumner, and others; glad I did n’t go, for I mean to abuse Crampton if I say anything about Nicaragua. Seward is to make a speech to-morrow on Nicaragua. Foot is also crammed with the same matter. The whole affair is ‘Bunkum,’ and in my judgment ought not to be meddled with; but if it runs along into a general debate, there is no knowing what may befall in the way of talking.

“I have sat at a table for a day or two with Horace Greeley, and a character he is, to be sure. His beating does not seem to have affected him much. He struck back as

well as he could. I do not think he would run to save his life, and such is the general impression."

February 7, 1856. "I am at odds with Foot and Seward upon the Nicaraguan question. Everybody believes Seward's speech was insincere. Foot was honest, but he was misled by Clayton. They are right enough in the argument, but wrong in their conclusions. Perhaps I may say something if I can find time, but every moment is occupied by this confounded committee on printing, in which I am likely to make more enemies than friends."

He made a speech on the 2d of April upon the relations of the United States with England under the Clayton-Bulwer treaty, taking the ground that though England had been guilty of bad faith, none of her acts, in his opinion, required the United States to go to war, unless it was for the national interest to do so, and there was nothing in the existing situation which required anything more than a remonstrance. The speech was a very long one, reviewing the history of the matter and the legal points involved, and a discussion of the proper policy. The matter blew over. The speech on the relations with England was complimented by Senator Clayton himself as the best of the debate.

Various events caused the postponement of the Kansas debate till the 20th of March. The House was not organized until February. The President, in his regular message on December 31, said very little about Kansas. But on January 24 he sent a special message to Congress in which he recognized the fraudulent legislature chosen by the Missouri invaders as the lawful assembly of the Territory, and denounced the actions of the free state settlers as violent and illegal. This message was referred to Mr. Douglas's committee. Mr. Douglas fell sick about this time and was unable to make his report on Kansas affairs

until the 12th of March. The President followed up his special message by a proclamation on February 11 to the people of Kansas directed against the free state movement, for it put the authority and power of the United States on the side of the pro-slavery party. The President's position was attacked by Senator Wilson in a strong speech which he had prepared to sustain a resolution offered on February 14, requesting the President to communicate all information in his possession relating to the disturbances in Kansas affecting the freedom of elections; by what authority armed men from Missouri marched into Kansas against its peace; what steps, if any, had been taken by the Executive to prevent such outrages, and if any United States officials had participated in these acts. Clay of Alabama moved the indefinite postponement of the resolution. This brought on an unexpected debate, and it fell to Mr. Fessenden, on the Republican side, to defend its adoption.

Mr. Fessenden observed that it was manifest the President had some special information on which he had based his message on Kansas affairs, while the Senate had nothing but private intelligence and newspaper accounts, and he therefore thought there was every propriety in requesting that such information as the President had should be communicated to the Senate. The resolution was respectful in its terms, seeking information of which the country was in need, and such resolutions were generally adopted without objection. Such intelligence ought to be communicated to the Senate, that it might have, and the country might have, some definite information to guide them, as the public mind was much agitated upon the subject. He therefore asked for the yeas and nays.

Mr. Yulee thought the resolution objectionable for assuming that such outrages existed, a fact the Senate did

not know, and Mr. Geyer considered it one-sided and partial in its scope.

Mr. Fessenden expressed his surprise at the unwillingness of senators to have the resolution take the usual course. The Senate frequently based such resolutions of inquiry upon public notoriety and public suspicion. Having no authentic intelligence, the Senate was obliged to call for it where it could find it. The President declared that such disturbances had occurred. The Senate had his assertion of the fact, and it was seeking for authentic information from which it would be able to discover the foundations of the assertions in the message.

Finally, by agreement, Mr. Clay withdrew his motion to indefinitely postpone, and the resolution was laid over until the following day.

After this flurry Kansas affairs were not brought up in the Senate until March 20. Mr. Douglas made his report on the 12th, reading it himself. It defended the legality of the legislature elected by the Missouri invaders, denounced the Topeka movement and the free state men as rebellious, and attributed the troubles in Kansas to the emigrant aid societies. Mr. Collamer, the Republican member of the committee on territories, dissented, and, like Mr. Douglas, he read his own report. He declared the effort of the free state people for redress was thus far peaceful, constitutional, and right; recommended that Congress should pronounce the proceedings of the spurious foreign legislature void, and should direct a new proceeding with safeguards for legal voting and against outside violence. Mr. Sumner rose immediately after the reading of the two reports, and repelled the assault upon the Emigrant Aid Society of Massachusetts, defending its action as right and constitutional. He charged the majority report with smothering the

issue, and declared that the minority report was a pillar of fire to guide the country.

On the 19th of March the House appointed a committee of three to inquire into the frauds attempted in the Kansas elections. The next day Mr. Douglas opened the debate in the Senate, speaking in support of his bill fixing the conditions for the admission of Kansas as a State. His argument followed the lines of his report. He attacked the Topeka movement as revolutionary, represented the Missourians as champions of law and order, painted the honest free state settlers, who constituted three fourths of the real inhabitants, as defiant rebels, and laid the disturbances in Kansas to the machinations of the Massachusetts Emigrant Aid Society.

Many speeches were made on both sides of the question. Among the Republicans Trumbull, Hale, Wade, and Wilson especially distinguished themselves. Collamer made a legal argument worthy of his great ability and learning as a judge. Seward's speech was said to be the best he had ever delivered. Mr. Sumner prepared himself with the utmost care, and on May 19 and 20 delivered that celebrated speech, "The Crime against Kansas," which was the occasion of Brooks's murderous assault upon him. The assault caused everybody at the North to read the speech, which produced an immense effect upon the country. Sumner was struck down on the 22d of May. On the 21st the Missouri ruffians plundered and destroyed part of the city of Lawrence in Kansas. The two events aroused the North, and probably contributed more than all else to swell the Republican vote in the free States.

To his son, June, 1856, Mr. Fessenden writes:—

"I have been back to Washington about a week, and my whole time has been employed in bringing up arrears

of correspondence and business. I have put you off to about the last, not, as you well know, that I love you least, but because to write you is a relief and a pleasure, amid the toil and anxieties of this troublesome position. To be a public man is sometimes a duty, but well I know that the pleasures of such a life do not compensate its annoyances and anxieties.

“Matters have settled down now into comparative quiet. There is, however, a strong ground-swell. The Brooks affair has done our adversaries much harm, and I do not think a similar outrage will be attempted, as much, perhaps, for the reason that it has shocked all honorable feeling as because it is well understood that nothing of the kind can be done with impunity. I think that Northern men have made up their minds not to be beaten to death without making such an experiment dangerous, and in my judgment such a determination is a duty to the country and the cause. . . .

“In the mean time, my boy, keep on in the path of duty, preparing yourself for that great struggle of life upon which you will soon enter.”

At this time (1856) Senator Fessenden's health was so delicate that he was obliged to go to Portland and stay until June, missing the first great debate on the admission of Kansas. While sick at home he was kept informed of events at the capital by Senator Wade, with whom he had become intimate, and whose courage and determination he admired. Mr. Wade wrote: “I am sorry to hear you are so unwell. We are lonesome without you. We had a great day yesterday. Douglas objected to a Kansas petition, which caused a universal pitching in. The Republicans believe they had the best of the fight. The Little Giant blundered and was as impudent as ever, but we met him in his own way, and beat him with his own

weapons. I do not think such scenes are honorable to the Senate, but in self-defense they have become a necessity." And a few days later he wrote: "It is perfectly evident this miserable administration is determined at all hazards to force slavery into Kansas, and that against the will of nine tenths of her inhabitants; and the fate of the Territory for years to come undoubtedly hangs on the next presidential election."

Mr. Wade said there was a scheme developing, which was supported by the majority of the Cabinet, to abet the career of Walker in Central America, aid him secretly or openly, as the case required, to overcome the petty states around him, and from that point assail Cuba, with the intent of conquering and annexing the whole to the Union. He added that Secretary Marcy had become alarmed at it.

About the 1st of June Senator Hamlin wrote: "It is my candid opinion that some one will be shot down before the Senate closes. All I have to say is, Let it come. If we do not stand manfully and fearlessly to the work before us, we ought to be slaves, as we would be."

Senator Fessenden at once started for Washington and took part in some minor debates which occurred up to July 9, when he delivered what is known as his rebuke to Douglas. On the 6th he wrote home: "With the exception of an hour for dinner, I was at the Capitol from Wednesday at 9 A. M. to 3.30 A. M. on Thursday, but I slept for two hours doubled up on one of the window seats of the senate chamber. The state of things in Kansas is truly horrible, and I for one am ready for civil war, if nothing else will do. The bill which was passed in the Senate on Wednesday is but the consummation of insult and outrage. I think there is no chance that it will pass the House. The presidential election must decide

whether we are to have civil war and consequent dissolution. I believe that if this state of things is to be forced on us yet further, the Western people will retaliate upon Missouri the horrors which have been inflicted on Kansas, and that will be the beginning of the end. It is a mystery how any man in the free States can hesitate as to his proper course."

It seems hardly necessary at this time to state that Senator Douglas of Illinois was opposed on the Kansas question to the North and took a position which favored the slave power, defining the principle on which he stood as "state sovereignty," advocating that the States and Territories should be left to act as they pleased on the question of slavery within their boundaries. Able, strong, and adroit in debate, he was extreme in his language, and used epithets towards the Republicans which often gave offense. In this debate he fell again into a habit he had formed of alluding to Republicans as "Black Republicans," and Senator Fessenden replied to him as follows: "I suppose he thought that his own severity of language and his own overpowering majesty of manner would make us feel very sorrowful whenever he chose to rebuke us. With all my respect for his ability, I do not feel a rebuke coming from him upon these questions, nor is my respect for his ability enhanced by his manner and demeanor towards this side of the chamber." Mr. Fessenden went on to say that *he* "had not applied epithets nor called gentlemen by names which they did not assume." He did not think it parliamentary to apply epithets of repulsion and degradation. "We call ourselves 'Republicans,' the senator from Illinois never speaks of us without calling us 'Black Republicans;' we call ourselves Republicans, the senator never speaks of us without calling us 'Abolitionists.' Here, on the floor of the Senate, in his peculiar manner, he desig-

nates us 'Abolitionists on the other side of the chamber,' taxing, for contemptuous bitterness, his very expressive features, and thinking that he wounds our sensibilities very deeply by putting us in an uncomfortable attitude. The only attitude in which he places anybody is one not creditable to himself. If gentlemen call themselves Democrats, I call them so, even if I do not think them Democrats in the true sense of the word. I would suggest to gentlemen that they let us be distinguished by the name we have chosen instead of trying to affix another upon us. I have no objection to it; it does not change my relations to my party or the country; it only shows that there are individuals in the Senate who forget the first principles recognized between gentlemen, and attempt to eke out an argument by affixing names upon persons or parties."

July 10 he writes: "Charles Sumner, I fear, is in a bad way. His friends are seriously alarmed. He gains little in strength, has lost much flesh, and staggers as he walks. May God confound the villains.

"There was another debate yesterday about Kansas affairs which lasted until nine in the evening. I took a part in it, having lost all patience with Douglas, who was unusually insolent. There was much plain speaking, but I am convinced we shall have no more fighting. The debate on the Brooks affair is now going on in the House, but nothing will be done. I have many fears that the bill of the Senate may be smuggled through the House. If so, Kansas is a slave State. I think that men will be permitted to speak their minds, though I fear we are destined to be beaten in the great contest."

Debates succeeded this incident in which Senator Fessenden participated actively, among them the Army Appropriation Bill, and he was put forward, on the 23d of

July, to answer Senator Douglas's charge against the Republicans that they obstructed, opposed, and defeated public measures to make clamor for party capital. A national election was now coming on, Frémont being the Republican candidate and Buchanan the Democratic candidate. Maine was the first Northern State which had formerly been Democratic, to hold a state election. At this time Mr. Fessenden received many invitations to make public speeches outside of his own State, but the condition of his health obliged him to save himself, and his anxieties on account of his family were very acute. Immediately after the inauguration of President Buchanan, the Dred Scott opinion came down from the Supreme Court. Among other things, it cast aside Senator Douglas's principle of popular sovereignty, the principle upon which the election in the North had been won by the Democratic party. Senator Fessenden asserted in the senate chamber that the court had reserved its judgment until the presidential election should be decided, asserting his belief that Mr. Buchanan would have been defeated if the decision had not been withheld, and that in the event of Frémont's election "we should never have heard of a doctrine so utterly at variance with all truth; so utterly inconsistent with all legal logic; so founded on error, and so unsupported by anything resembling argument." In consequence of the Dred Scott opinion, mass meetings were held in the North to denounce it. A great meeting was held in New York city at which Mr. Evarts and Senator Fessenden were invited to speak. Senator Fessenden was too sick to accept, but wrote the following letter, which was read at the meeting:—

MY DEAR SIR,—I have received your note inviting me to address a mass meeting of our fellow citizens in New

York in relation to the recent remarkable decision of the Supreme Court in the Dred Scott case.

It would give me sincere pleasure to comply with the wishes of our friends, were I not in so enfeebled a condition, consequent upon my long continued illness at Washington, that I am compelled to avoid all exertion and try to find in repose a restoration of health and strength.

I feel with you the transcendent importance of the theme referred to. To me, as to the people of the free States generally, that decision has occasioned serious alarm. The tribunal which made it has in other days merited and received the respect and confidence of the country. Now, however, it has assumed to give the Constitution a meaning unknown to those who framed it, — unsuspected by its earliest and ablest commentators, subversive of individual rights, and at war with freedom and humanity. Whether or not this decision is to be considered a pure emanation of the judicial mind, uninfluenced by sectional or party prejudice, the people will decide. While the mandate of that court within the range of its constitutional authority must be submitted to, the opinions of its members, more especially when extra-judicial, are open to examination, and will stand or fall according as they may oppose themselves to the public mind. In the mean time, no man who would guard the liberties of his country should forget that there is no point from which they may not be assailed, and that assaults are all the more dangerous when made from quarters least liable to suspicion.

The senator's health continued to be precarious for some months, and in July he lost his wife. Their union had been most affectionate and confidential, and she had been, though an invalid from the birth of her first child, a delight and a consolation to her husband and family ;

she had borne five children, the youngest a daughter, who died at the age of five. Four sons survived her. Notwithstanding the delicate condition of his health and his sorrow, Senator Fessenden labored earnestly in the campaign for the election of a governor and state legislature.

Congress assembled in December, 1857. A humorous incident is worth telling, perhaps. The Senate elected Mr. Fitzpatrick as president *pro tem*. When Mr. Fessenden first entered the Senate, Mr. Fitzpatrick never seemed able to get hold of Mr. Fessenden's name, and continued to pronounce it incorrectly and peculiarly. One morning Mr. Fessenden met Mr. Fitzpatrick, and Mr. Fitzpatrick, as usual, mispronounced his name. Mr. Fessenden responded graciously, "Good-morning, Mr. Kirkpatrick." A day or two after Mr. Fitzpatrick again boggled Mr. Fessenden's name, whereupon Mr. Fessenden warmly and cordially responded, "Good-morning, Mr. Gilpatrick." After this Mr. Fitzpatrick took the hint and mastered the pronunciation of Mr. Fessenden's name.

The Republicans in the Senate had now increased to twenty, Democrats thirty-seven, Native Americans five. Jefferson Davis and Andrew Johnson came in. Mr. Fessenden was assigned to the committee on finance. Kansas came up in the shape of an attempt to force her into the Union under the Lecompton Constitution. Senator Fessenden wrote home that he feared the effort would prove successful, for we "know too well the soft malleable nature of dough — I should have said ductile, but the word will do. On this point the President is obstinate, for feeble men are always so when wrong and knowingly so. . . . My doctrine, however, is to hope and fight on, and for myself I feel as if this was the only work I have to do."

He had one of his sweet home reveries, and tells his family about it in a letter of January 10, 1858: —

“How often when vexed with cares, wearied with labor, and annoyed with all the disagreeables of this unnatural life, have I thrown myself into my chair, and let my thoughts wander off to other scenes, to my own home and all the memories which cluster around it. There is much in the past that is sorrowful, but the memory of past joys, though sometimes mournful, is always pleasant; to one of my age it is vastly more agreeable to look backward than forward — for I am grateful for what has been given me, and bow to the universal law that movement is always forward, so far as life is concerned. What the future will bring forward is uncertain. Of the past I cannot be deprived. I feel, too, how little, comparatively, is left for me in the future, and this renders the past doubly sweet.

“After writing the above I laid down my pen, threw myself back in my chair, and began to think. How much ground the mind can travel over in a short time! For twenty minutes I have been seated in my library of a sweet September morning, and the usual operations of combs and brushes have been finished. Finding myself in excellent spirits and condition, I started up for a garden walk. You need n’t be jealous, for I took you with me. I went slowly up the middle walk, stopped a few moments on the outside of the summer-house, and contemplated the clustering foliage about it, and the beds of roses on each side (white roses, you remember), passed round and sauntered on between the clumps of syringas above, and now and then stopping to put a delicious strawberry between my lips. Pretty soon, however, I wandered back to the little summer-house, and quietly entered. How pleasant and sweet it was to be there, and, ‘the world shut out,’ enjoy the beauties of my little garden until all my capacity was exhausted.

“I am afraid you do not sympathize with my raptures

exactly, and therefore I suppose you will be ill-natured enough to turn critic and ask how I can find roses and strawberries in September. The truth is, I must either, unless nature could be forced a little, dispense with them or dispense with you. I was unwilling to do either, as both were absolutely essential, and poetic license allows large liberties.

“I hope, however, as I took you along with me, you will be willing, instead of calling me ‘Porthos,’ to admit that the spot I love so much is pleasant — when I am there.”

On the 26th of January, 1858, the bill to increase the army was called up and read to the Senate with the report from the committee on military affairs, of which Jefferson Davis was chairman. The expense involved, it was considered, would be seven or eight millions. The reason assigned by its supporters was trouble with the Mormons. Mr. Fessenden was opposed to it, deeming that it had a hidden motive and was really some move in the interests of slavery. The Republicans were opposed to it, but Mr. Seward spoke and voted for the bill and thereby awakened doubts of his reliability which were never cured. At that time Senator Fessenden wrote to a friend: “Seward is to make a speech for the bill. He is perfectly bedeviled. He will vote alone, so far as the Republicans are concerned, but he thinks himself wiser than all of us.”

Senator Fessenden, for the Republicans, spoke against the bill on the day it was read. He wanted more reasons to be shown the Senate, arguing that neither the Secretary of War had given reasons for it nor the military authorities, etc. He wished the people to be jealous upon the subject of using the army for enforcing the laws. The matter of the right of the government to use the army in the States and Territories was discussed on Jan-

uary 28, Senator Fessenden maintaining that Congress could only interfere in States when called upon by States to do so, but that as to the Territories, it was the other way about, because they were under the direction of the government. The bill was defeated.

Still feeling the loneliness of Washington life, despite its political excitement, Senator Fessenden confides it in a home letter of January 31, 1858:—

“Sitting late last night before my solitary fire, I fell into a long train of thought upon what little future there is left for me. The prospect is not very delightful. First, I can have no home—a home where I am not master is no home at all—and a home where I am master and female servants are mistresses is worse than none. I shall have no place, then, where I can gather dear friends about me, and keep up that love for the few which, after all, makes the charm of life. Again, I have no daughters, and my sons will soon leave me on their several paths of life. What is to become of me if I live to old age? It is to be hoped that I shall not. But it is useless to anticipate. I will meet the events and changes of life as well as I can, and try to retain my manhood until the curtain falls. Until then” . . .

Events in Kansas caused the country to look with deep anxiety towards Congress. President Buchanan had sent out a governor of the Territory. He took sides with the free state men. The legislature of 1856 had called a convention to adopt a Constitution, but the convention submitted to the popular vote the single question of accepting the Constitution with slavery or without it. The free state men refused to vote upon it. The pro-slavery party voted and the Constitution with slavery seemed, upon the face of matters, to be unanimously adopted. A little later another election was held for a

new legislature at which the free state men were victorious; but in the face of this election the President sent a message to Congress favoring the so-called Lecompton Constitution and recommending that Kansas be admitted as a State with it. The message brought on a great and memorable debate which lasted many weeks.

Writing to his son, February, 1858, Mr. Fessenden says:

"The President's message transmitting the Kansas Constitution has been sent to us, and a debate has arisen upon it. What will be the result I do not know, but I am apprehensive that it will be forced through Congress.

"The question will then be tested, whether the free States will or will not yield their interests and independence to the slave power, and the test will be a final one."

The message was received on February 2, 1858, and Senator Fessenden answered it on the 8th in one of the longest speeches he ever delivered in the Senate.

A few days afterwards he wrote home: —

"I suppose you have learned from the newspapers that the speech is made. It will be out in pamphlet form in a few days, and I will send you a copy, but you need not feel under any obligations to read it. People say it has increased my reputation. At any rate, it has relieved me of a burden, as I had it to do and the thought oppressed me. Others must now take the burden of the Kansas debate, and I have nothing to do but look on and put in a word now and then."

And again in a few days: —

"Does it not seem to you sometimes as if inanimate things could and do speak to you? You remember the fellow who said he found 'tongues in trees' and 'sermons in stones.' I belong to the same class. Every leaf of that garden used to abound with pleasant words. The very walks were eloquent, and the sound of those many

voices are always in my ear; and though now covered with a snowy veil, I can see all the beauties of that spot as when spring has uncovered them all, and they are again beginning to swell and glow into life. Fortunate, is n't it, that the mind's eye can see what is hidden from the natural one?

"Now, to speak of meaner matters. The speech is out and I shall send you one with this. Of course you got no idea of it from the telegraphs. It has pleased the people at home very much, and I have received many letters from all quarters of the *free* country. I shall have to defend it by and by, for warning has been given me to that effect. So much the better, for of course it is worth attacking. The best thing is that I should not be obliged to fret myself again about speechmaking for this session. That idea is a great relief to a lazy man."

Senator Jefferson Davis replied with a severe arraignment of Senator Fessenden's speech. The scene was described at the time as most exciting. Mr. Davis spoke with passion, and when he concluded Mr. Fessenden immediately arose to reply, and a debate ensued between him and Senator Davis of great interest, which attracted widespread attention. Senator Fessenden's speech was much approved by the Republicans, because for the first time in the history of the Senate a speech was delivered which told the Executive that prevarication in a message was a political as well as a moral offense.

March 15 a bill was reported to the Senate to admit Kansas under the Lecompton Constitution. It was hotly debated, Mr. Fessenden leading against the bill. It was passed in the Senate but rejected by the House. Soon after this Mr. Fessenden presented resolutions of the Maine legislature relative to slavery in Kansas, which, among other things, declared the Lecompton Constitution

to be a fraud. This led to a hot debate between Senators Mason and Fessenden, in which Mr. Fessenden said that while he was free to present any resolutions of the Maine legislature without committing himself personally to them, yet he indorsed these resolutions personally, and wished to be considered responsible for them.

As a compromise of the Kansas question, a bill was offered providing for a new vote by the people of Kansas upon the acceptance of the Lecompton Constitution and providing for a large land grant by Congress to Kansas if the Lecompton Constitution should be accepted.

Senator Fessenden's private expression concerning this action is shown in a home letter of May 2, 1858:—

“The Kansas iniquity has been consummated at last, and I am glad that it is over for the present. I think the victory will prove a most disastrous one, in every particular, provided the Kansas people have virtue enough to spurn the bribe offered them, which I trust they will have. The whole thing is infinitely disgraceful to all concerned. The South has lost all claim to honor, and the Democratic North never had any. Our people are in fine spirits, for they believe that the republic is safe and the democracy ruined. All this may be, but I have tried long enough to be prepared, at all times, for defeat.

“The crocuses have been out in the Capitol grounds for ten days, and the turf is green. How much brighter and softer and smoother my own little spot of velvet lawn would look and feel to me than all which Washington could afford. How I should enjoy it this sweet morning. The very idea makes all my fingers tingle to their very tips.”

The people of Kansas rejected the last proposition by an overwhelming vote, thus killing the whole scheme of making Kansas a slave State. The contest covered the

administration with ridicule, and left an irreparable breach in the Democratic party.

The senator is still homesick, and writes, March, 1858 :

“What a pity that I cannot drop in upon you this morning before you go to church—long enough, at least, to have my locks put in order, as they sadly need your help. I suppose we could find topics of conversation for half an hour. Old times and old scenes are a never failing subject, you know. I could discuss my friends, and you *yours*. All their various good qualities would be well canvassed, and of course we would never discover any that were not good. It is said to be a weakness of human nature that we always love to hear our friends undervalued. This is a libel, I know and feel. At any rate, the rule has no application to such friends as mine; for have I not felt their value, and do I not know how much my intercourse with them has added to the happiness of my life? All the delights of gratified ambition have been nothing in comparison. The anticipation of escaping from these scenes of turmoil and renewing that kindly intercourse has cheered many a lonely hour. The belief that I am missed from that delightful circle, and that my return to it is ardently desired, and will be warmly welcomed, is one of my greatest consolations. If I ever write a book, it will be on that very subject. Don't you think I could do it well?”

Oregon Territory now applied for admission as a State. Its Constitution prohibited slavery, but it barred free negroes from resident and voting privileges. Senator Fessenden opposed the admission on the ground that the above named prohibition was an insuperable difficulty; that he did not believe in the doctrine of self-government to the extent that allowed a portion of the citizens of the United States to interfere with the rights of another por-

tion ; that the Constitution and laws of Maine made free negroes citizens of the State as well as white men, but that the clause in the Oregon Constitution prohibited free negroes from coming into the State and residing there, and was a prohibition which would prevent a portion of the citizens of Maine from becoming citizens of Oregon with full privileges, and he could not vote for the admission of a State with a Constitution which deprived a portion of his fellow citizens of his own State from enjoyment of privileges which other citizens have.

At this session an attack upon the fishing bounties was made in the shape of a bill to repeal them. Senator Clay introduced the bill and delivered a speech in favor of it. Senator Clay was answered principally by Senator Hamlin, and Senator Fessenden addressed himself to points which he thought had not been fully elaborated by Senator Hamlin. The bill passed the Senate, but never came up in the House. He made some speeches against extravagance in printing matter which he considered not worthy of being put in print at the government's expense. The last month of the session was mainly occupied with the consideration of the appropriation bills. Senator Fessenden represented the Republicans on the finance committee, and was obliged to give unremitting attention to those bills which embraced the expenses of the legislative, of diplomatic, of army and navy, and other departments. Congress adjourned on the 14th of June, 1858. Senator Fessenden went home and entered into the campaign in an endeavor to compose the quarrels which were rife in his State, and in that effort made numerous speeches throughout the State. The Republicans were successful.

The Senate session of 1858-59 was a short one. Several measures were proposed which showed how

completely the interests of slavery controlled the majority of the Senate. The Cuba matter came up in the shape of Mr. Slidell's bill to place thirty million dollars in the hands of the President to facilitate the acquisition of Cuba. The administration favored the proposition. The money was asked for to begin negotiations. It was supposed one hundred and twenty millions would be needed. The Southerners wanted Cuba because, in case of the establishment of a Southern republic, Cuba would by its geographical position be a part of it, and its value would be great. This bill made the senator rather angry, and he writes home: —

WASHINGTON, February 20, 1859.

Living in continual apprehension of some new iniquity to be perpetrated by this Congress, I am anxious to see its expiring moment. Besides, I feel as if when this *six years* are out I may be able to start upon a new term with greater hope and vigor. You will see by the papers that I have been taking some part in the debates of late. The occasions were unexpected in some instances, but it passes human forbearance to sit silent listening to such rascalities as are advanced here. I doubt, moreover, if I shall say anything upon the Cuba question. The time left for business is very short, many of my friends are prepared and anxious to speak, and I am neither; so that unless I get angry I shall probably content myself with voting.

Senator Fessenden first opposed an attempt to bring up the bill on February 9 on the ground that the balance of the session was too short, and the Senate had all it could do to attend to ordinary business, but the majority voted to bring forward the bill, and the debate was resumed on February 25. Senator Toombs declared that none but cowards would hesitate to support the bill for

the acquisition of Cuba. Senator Fessenden said that the Republicans were neither to be scolded nor laughed nor frightened from their course, and the Senate knew well what the minority could do upon a question when they were determined. They had heard before the thundering tones of the senator from Georgia in denunciation, and the dulcet tones of the senator from Louisiana in solicitation, but yet the Republicans had accomplished their purpose. He gave notice that the Republicans would take their own time under the rules of the Senate with reference to the matter, and if the majority brought forward a bill of this character they could not expect the Republicans to aid them.

He wrote about it: —

WASHINGTON, February 26, 1859.

We had a hard struggle last night to stave off Cuba, and succeeded. I gave them notice (privately) that it could not be passed until Sunday, and I will keep my word if the matter is left to me. The Democrats crept out of a very small place last night. Fatigued as I was last night when I got into bed, I should have been glad to have crept into one and kept quiet a while.

The next day Senator Slidell said that he would make no further attempt to bring up the bill that session. The Cuban proposition never came up again.

Writing home on this subject, Mr. Fessenden said: —

“It is quite obvious that a portion of the South means to kill Douglas if possible. It is a large and controlling portion of the politicians. There is to be a quarrel at all events. It will result, I have no doubt, in crushing the hopes of D. He cannot stand against the administration and the leading men of the South. At present, however, no predictions of the future are reliable.

“For two successive evenings I have been out until a late hour, but have looked in vain for the north star. Though not visible to the bodily eye, yet to the mind and heart it was distinct and plain. Clouds white and black piled one over the other cannot hide it from me either by day or by night, nor any of the dear friends of whom it is the representation, and all of whom I long to see. How the thought warms me, cold as most people think I am.

“For my own part, I am anxious to see the 4th of March with no harm done. The most I fear is that a new treaty of annexation may be patched up with the revolutionary party in Mexico, to be confirmed by the Senate. We shall be strong enough in the next Congress to checkmate anything of the kind; and I think the country will stand for another year without any new legislation, or, at any rate, unless we can have something better than has been proposed.

“This is a great place for widows in the fashionable season. We have some half dozen of them now staying at the hotels and creating a sensation. They are Southern ladies, and large stories are told of their large incomes from cotton. One of them is nearly six feet high, and of course needs a large supply of that article. As I never frequent the levee, etc., I have not yet seen them. A pretty good story, in which I am concerned, was told me of one of them by a friend. He told her that he did n’t know what the condition of the House was, but he could n’t think of but two unmarried men in the Senate, Mr. Clingman and myself, upon which she said that one was ‘dried up’ and the other ‘too old.’ As Mr. C. is the youngest of the two, of course I took the last position—with which I am obliged to be content. As I have never seen her, it is impossible to estimate my loss.”

CHAPTER III

LINCOLN ELECTED : SOUTH SECEDES

1859-1861

ON the 25th of January, 1859, Senator Hamlin presented Senator Fessenden's credentials as a senator for six years from the ensuing 4th of March, the Republican members of the Maine legislature having reelected him by a unanimous vote. After his choice the "St. Louis Democrat" said of him that "he had won a national reputation not inferior to any for ability, purity, and firmness; that he was a vigilant, indomitable advocate of free soil and free labor; that he had encountered the most formidable of the slave propagandists in debate, and his manly bearing, command of temper, dignified manner, and proud assertion of principle had won their tribute of respect. . . . That he had never given a vote which required explanation; that there was no senator who possessed more nerve, more backbone, clearness of intellect, or more effective logic, which, associated with unflinching purpose and genial courtesy, always secured a willing audience."

The senator wrote his son, apropos of his reelection to the Senate: "I am exceedingly gratified at the good feeling and unanimity. I am doubly bound to serve the people honestly and desirous to justify their confidence. I can say with truth that I have never either sacrificed any political principle or even concealed an opinion, and I have never sought a nomination to office. I have not

the shame of recollecting that I owe my success to unworthy means. For many years I struggled on in a hopeless minority, content, as far as I was individually concerned, to remain there, retaining a clear conscience and my own self-respect. I trust that all my sons will ever be guided by the same rule, as they may be certain that no honor can ever repay them for the loss of their own esteem." He wrote to his father: "The pleasure which this reflection affords me you can well appreciate, for to your teachings and example I am indebted for it.

"I do not anticipate that much harm can be done by this Congress. The Cuba proposition is a farce, for it cannot become a law except by force. It is meant at present only for political effect. What influence a desire to acquire Cuba may have upon the North, we cannot now determine. I am, however, strongly impressed with the belief that the experience of the past five years will bear good fruit. The country is better educated than it was when Texas was acquired. I believe the slavery question is now pretty well understood, and the industrial bearings of Southern annexation comprehended by the masses. Be this as it may, there is but one course for me and those who think as I do, viz., to oppose all further acquisition of slave territory boldly and openly. I know the scheme has many charms for the mercantile mind; but this does not control the country, and will not be single even upon a matter which looks so fair upon its face."

On the 18th of February, 1859, the President asked Congress for legislation for the protection of American citizens while crossing the Isthmus, and recommended the passage of an act authorizing the President to employ the forces of the government in that direction. The Republicans thought that this was done in pursuance of a policy to obtain a footing in South America, and acquire

territory for the further extension of slavery. Senator Fessenden opposed the proposal on the ground that the President was coming to Congress and asking for power to commence hostilities and exercise a power which the Constitution placed in the Congress; and Congress was asked to divest itself of that power and put it in the hands of the President. He stated that he did not have enough confidence in the President; that the President had presented no reason for giving this power. "Was Congress a parcel of children? Have they no judgment to be convinced, nor minds to be informed?" No facts had been communicated to them. He hoped the time would never come when the Senate would put so much confidence in the head of the republic as to invest him with the powers, and trust them to his discretion, with which the Constitution had invested the Senate. This question was discussed at length between Senator Benjamin and Senator Fessenden, and after the discussion a motion to take the bill up was defeated. On January 27 the Pacific Railroad project was brought up and opposed by Senator Fessenden on the ground that before undertaking it the government should first ascertain, by a scientific survey, the best route, and act upon considerations of statesmanship, as well as of engineers. He thought the railroad should be built by the government with a full knowledge of what was to be done, with a sense of the great consequence of the undertaking, and that the control of the matter should remain in the hands of Congress. Two days later he resisted a proposition to give to the city corporation of Washington a charter for a horse railroad on Pennsylvania Avenue, taking the ground that Congress should retain control of the streets of Washington, although he was in favor of having such a railroad as a great public convenience and as soon as possible. On February 18

a pension was proposed to Margaret Whitehead, and Senator Fessenden opposed it, saying that he was in favor of invalid pensions for the army and navy, but he did not approve of granting pensions to the widows of distinguished officers who had died quietly in their beds. He had never seen any reason for them, and thought such persons should take their fortune with the rest of the people. The last part of the session was very laborious for Senator Fessenden, as he was obliged to watch the appropriation bills. He proposed and carried an amendment to the Army Bill, securing a payment of certain sums to Massachusetts for services in the War of 1812. He began to think of home about this time, as is evident from a letter to his son, saying, "As I grow older, I attach more importance to the cultivation of the heart. We are too apt, in youth and early manhood, to think too much of intellectual attainments. Perhaps I should have been a happy man and done my duty better had I cultivated the affections more. Your grandfather has not fallen into this error. His love for humanity is boundless, and if he is not rewarded in this world, I have no doubt he will be hereafter."

He was so much prostrated in health after this session that his physicians insisted upon absolute rest, and he was obliged to decline speaking in Connecticut. Senator Hamlin spoke there, and Senator Fessenden wrote him in a complimentary vein, and said, "A week in my garden has done much to bring me up, and something was much needed to that end." Senator Fessenden loved to fish, and about this time he indulged in that sport, and it was perhaps his love for fishing that induced him to pen the following letter : —

PORTLAND, June 26, 1859.

How pleasant to saunter along the border of a shaded stream, pausing now and then to admire some sweet spot,

occasionally drawing your line gently along the surface, until you arrive at a dark, deep pool, where all is still and quiet. There you softly steal along, and gently thrusting your rod between an opening in the bushes, touch the surface lightly with your tempting fly, gently moving it to and fro. In a moment all is life and animation. The pool is stirred to its lowest depths. The fly disappears from the surface and the rod vibrates like a reed. Soon, however, the contest is over. The fish is in the basket, and the sportsman's eye glistens with satisfaction. All this is but a feeble and tame effort at describing one of the greatest enjoyments of life, such as I have often experienced in my wanderings among the hills and vales of New England.

There is to be a great gathering at Plymouth on Tuesday, and you have probably seen me announced as to be present on the occasion. I had, however, positively declined, as I utterly abominate all such crowds. I am content to let Governor Chase and Governor Banks fight it out in their own way and make all the capital they can. How much discomfort these ambitious men make for themselves, and yet little is gained by all their efforts. I shall perpetrate no such follies. A quiet hour in the library, the world shut out, with a friend to keep me company, is worth more than all the honor I could gain by a dinner speech at Plymouth, whatever the Pilgrim Fathers might think of my taste.

The elections had increased the Republican contingent in the Senate by four members. As soon as the Senate was opened, Mr. Mason offered a resolution of inquiry upon the John Brown raid on Harper's Ferry, the ostensible purpose being to find out if the Republicans had anything to do with the instigation of John Brown's

action. Senator Trumbull proposed an amendment to add to the investigation of the Brown matter the seizure of the United States arsenal at Liberty, Missouri, by a mob of Missourians, and their invasion of Kansas. This matter called up quite a debate, in which Senator Fessenden took part, saying that he would have been satisfied with the original resolution, but did not think well of the amendment. He was willing that the Southerners should have a chance to find out if the Republicans had anything to do with the Brown raid. As for him, if anybody should ask him if he had any complicity with it, he would not reply to the question. He was a senator, sworn to support the Constitution and the laws, and he would as soon think of asking the senator from Virginia (Senator Mason, who introduced the measure) if he had any complicity with those persons who were bringing in slaves from Africa. Senator Trumbull's amendment was rejected and Senator Mason's resolution was adopted. Senator Fessenden's reason for his position on this matter is shown in a letter he wrote during the debate, saying: "We are having a debate in the Senate on the Harper's Ferry affair. It was begun in the hope of hurting the Republicans, but we have at last drawn out their real object so manifestly that it will do more good for us than harm." In the same letter he says: "In cities politics are necessarily influenced by trade. The mercantile class, as a class, is always mercenary and unreliable in public affairs. You will sometimes find one who, though a man of trade, rises above all the selfishness begotten of his calling, and in great emergencies or crises is capable of great efforts and sacrifices. Still, as a general rule, my remark is true; men engaged in Southern trade cannot look beyond the present to the inevitable future. I never calculate on such men, but the heart of New England is still true, and all this petty stuff will be swept

away by the whirlwind of public opinion. At all events, the experiment must be tried sooner or later. I have no fears of the result on our obtaining power. Trade will follow its own laws. The appeal to the pocket is a strong one, but there are not many in New England who know they have a pocket, or that it is appealed to. . . . I am harnessed to the car and must help drag it on. I hear from Sam that you are as well as when I left. I trust you may long remain so. I hope to hear your cheering voice for all the time I may be obliged to take part in this warfare, and that you will witness its triumphant close."

He says in a letter to his son, December 15, 1859:—

"The prospect of legislation would be poor at this session even if the House were organized, but the most astute are unable to divine when that will be. . . . In the mean time, all but the Republicans make speeches, while they sit silent and attentive, ready to vote and resolved to yield nothing. This is their true policy, and must result, I think, in eventual success.

"The debate on Mason's resolution was rather tame, and has had no other effect than to satisfy us of its party aim. Democratic policy is to play the old game of dissolving the Union harder than ever, with a view to political capital at the North. It is seconded by the Union forces, who are either knaves or fools. I think the game has been played out."

Another letter at this time:—

WASHINGTON, January 8, 1860.

It is strange that as I grow older these solitary musings become more agreeable to me. Perhaps it is always so. I have lost all desire to make new friends, and old ones become more and more precious. They need have no fear that any power can displace them, or weaken my affection. I think that if magnetism could go far enough to bring

absent friends together at a wish, the inventor would receive a fortune, don't you? How often, in such a case, would you be met?

On the 16th of January, 1860, Senator Douglas offered a resolution directing the committee on the judiciary to report a bill to protect each State and Territory from invasion by the people or authorities of the other States. At the request of Senator Douglas the resolution was taken up a few days later, and Senator Douglas made a political speech upon it, charging the John Brown raid to the teachings of the Republican party and accusing the Republican party of making war upon the institutions of the South. The Republican senators requested Senator Fessenden to reply on the spot, and Senator Fessenden made a long and vigorous answer repelling the charge, saying, among other things, that "when Democrats told the South that the Republicans of the North were enemies to Southern men and their institutions, in a certain sense they were guilty of calumny upon their fellow citizens."

Continuing: "The senator from Illinois is indifferent whether a new State adopts free institutions or slavery; for himself he was not indifferent. While he did not interfere with the slave States, he preferred freedom. His heart was not indifferent to the question whether a portion of the human race was held in bondage. The Republican party had expressed no views and attempted nothing which the men of the Revolution had not said and done in regard to slavery. Republicans were told that if they elected a president on their platform the Union would be dissolved. While the senator is providing against invasions from one State into another, he might properly provide against armed opposition to the constitutional

government of the people ; and when threats were made of opposition to a lawfully elected President, he might inquire what legislation can be had to prevent the evil. He regarded these threats as an electioneering trick. If the election of a President by a majority of the people was to be made a cause for dissolving the Union, the sooner the question was settled the better. He did not care to live under such a government. If the exercise of their constitutional rights would hazard the Presidents of the Union, then a dissolution of the Union was already present, for the time had come when one set of men would not submit to the Constitution as formed, and, he trusted, when another set of men would see that the Union was not broken, and they were not deprived of their constitutional rights." Senator Fessenden wrote about this speech that it was unpremeditated, but that the Republican senators asked him to say something and that he had been ill for several days, and what he said exhausted him very much, saying: "It was understood that Wade should take care of Toombs, but he failed to get the floor and I am glad of it, for he was very angry. He will reply soon, and my only fear is that he will say too much."

The presidential nominating convention of the Republicans was approaching. Many expressions were made to Senator Fessenden of a preference for him as a nominee. His preserved letters are full of them. The Republicans in Maine desired to have the state convention declare in his favor, but he refused to permit it. But as the time for the convention approached, there was a strong undercurrent for his nomination, and there was quite an opinion that it would be either him or Mr. Lincoln. He refused to be a candidate, and wrote to the Maine delegation not to present his name ; and to a friend he wrote a letter intended to be an expression of his views to the

party, as follows: "In the present crisis men should be selected as delegates who are uninfluenced by individual interest and who have no other purpose than to do what the good of the country requires. Maine should set the example in this. For so great an office no man has a right to recommend himself; his own name would not, in any contingency, come before the convention, and he was not anxious that it should. Personally I do not wish for it, and no one can do me so much injury in any way as by mentioning my name."

Two letters from Mr. Blaine, and a few of Senator Fessenden's letters home, concerning this episode, show that Mr. Fessenden's name would have been before the Chicago convention had he not himself been averse.

FROM MR. BLAINE.

Confidential.

AUGUSTA, March 6, 1860.

MY DEAR SIR, — There was a very curious contest for delegates at large, and the result was very much the same as I anticipated in my last letter to you. The delegation is not such a one altogether as I desired, but I am utterly unable to do anything to change its character; so, also, of others, who feel an especial degree of friendship for yourself. Pike, for instance (F. A.), owing to circumstances and reasons quite obvious, could not oppose Talbot — and, in fact, had to go in for him, and even nominated him in the convention as "the unanimous choice of the East." McCrillis was supported by the East and by the West both, though for a day or two the contest between him and Daniel threatened to be quite bitter. The friends of each gave the other an airing in reference to moral standing at home which would have gratified the most greedy scandal-monger that ever feasted on the faults of neighbors.

McCrillis then took the floor, and in a speech of some length replied to the insinuations and charges which had been brought against him of being unfriendly to you. He repelled them with great indignation, and pronounced an eulogium upon you which was really eloquent and which was received with vehement applause. He pledged himself to do all in his power for you and for the good of the cause, first, last, and always. A similar definition of Talbot's position was vouched by Pike and his other immediate supporters. I have previously indicated the position of Stevens, the only one on which he could have received my support or the support of any of the Kennebec Republicans. The convention was boisterously demonstrative at the mention of your name, and I am quite sure that your friends had the most abundant cause to be satisfied and gratified with the spirit that was everywhere manifest.

Governor Morrill would have been unanimously elected had he consented to stand, and even after positively declining he received nearly half the votes of the convention. The governor designs to go to Chicago, as does a large number from this section, but he had some peculiar objections to heading the delegates, and as he is a man of great sensitiveness of feeling, he could not be induced to risk certain *flings* which he thought would follow his election. He is a most cordial friend of yours. . . .

It was difficult in the convention to keep a resolution specifically recommending you from being offered, and it was only upon the assurance that you would not desire it that the movement was suppressed. Had it been introduced, it would have been idle to attempt any withdrawal of it; it would not have been permitted by the convention.

FROM MR. BLAINE.

Private.

CHICAGO, Monday A. M., May 16, 1860.

MY DEAR SIR, — I arrived here Saturday night. . . . I may mention, however, that the Seward force is on the ground and assume an air of dictation which is at once unwarranted and offensive, and which I think will create a reaction before Wednesday. They cannot count up more than a *third* of the votes from States that can carry the ticket, and how much they intend or expect to make from such delegates as come from slave States has not yet transpired. Should he be nominated by the aid of the delegates that can promise him no support, the Pennsylvanians would consider it a most insulting disregard of their rights and wishes. I do not myself believe that he will be nominated, though a great many here think otherwise. If he is not, I will adhere to the opinion I expressed to you in Portland, that the game lies between Lincoln and yourself — Chase, McLean, Banks, and Bates stand no chance. Cameron is hotly urged by a majority of the Pennsylvanians, but the proposition is scouted on all hands outside of that State. Wade cannot be made a compromise candidate. His speeches in Maine and on the Western Reserve are remembered by too large a number.

A letter from Senator Fessenden to his cousin, December 24, 1859: —

“Are you not afraid, my dear cousin, that I shall be ‘upshot’ with all that is said about me in reference to the presidency? I send you a specimen: They say here that my chances are much better than those of anybody else. But do not be alarmed. I am not deceived, or elated, in the least. *Positively* I do not wish for it, and tell everybody that no one can do me so much injury in any way

as by mentioning my name — and I believe that people are satisfied of my sincerity. The truth is, I am tired of all such subjects, and sometimes feel as if I would resign and go home.”

To his family, May 17, 1860 : —

“You will probably get the result at Chicago before this reaches you. We know nothing here except what appears by telegraph. It looks now as if Mr. Seward would fail. In that case Lincoln seems to be in the ascendant. I have no doubt it will either be Mr. Seward or a Western man. I have done everything I could to avoid being named at all, and have specifically directed the Maine delegation not to bring me forward in any event, or procure it to be done.”

The inquiry into the John Brown raid had made some progress, and one of the witnesses, Thaddeus Hyatt, refused to appear and answer before the committee. He was brought before the Senate and again refused to answer, and desired to read an argument against the jurisdiction of the Senate. There was a difference of opinion upon the question of hearing the argument. Some leading Republicans and Democrats held that Mr. Hyatt's answer was disrespectful to the Senate. Senator Fessenden protested against this doctrine, saying that Hyatt had a right to defend himself, and it was a new notion that it was a contempt of any court to plead to its jurisdiction. He was sustained in this and the paper was read, but the Senate voted that Hyatt should answer. He refused, and then the Senate discussed the question of committing him for contempt, Senator Sumner maintaining that there was no such power, and Senator Fessenden maintaining that there was, urging the commitment of Mr. Hyatt, and voted for it. Hyatt was taken into custody and remained there for some time. Senator Fessenden explained his vote as fol-

lows: "As to Mr. Hyatt, I tried hard to convince myself that I could let him off, but the matter is too clear for serious controversy. There was no way but to vote as I did, and I deem it best to give the reasons in brief: The power claimed is incident to all legislative bodies and absolutely necessary to the discharge of their trust. The question was not between Mr. Hyatt and the Senate, but between him and the country. Still, the power is not a popular one."

This was the last session before the civil war in which Northern and Southern senators showed their feelings without restraint. They met once more in the following short session, but the then impending conflict prevented both sides from indulging in exasperating language. Senator Fessenden now represented the Republicans on the finance committee, which obliged him to oppose some of the appropriations and amendments, and he was brought into constant conflict on the floor with Davis, Toombs, and others. Senator Fessenden's persistence in demanding explanation of the objects of appropriations made Senator Davis impatient, and the short debates between the two were particularly sharp. The two senators were very much alike in some of their mental and physical characteristics, resembling each other in appearance. They both had slender figures and intellectual faces, were high-strung in spirit and prompt to resent attack. Senator Davis was eloquent in debate and sharp in reply, but Senator Fessenden was considered his superior in dialectical skill from greater experience and practice.

Lincoln and Hamlin were elected President and Vice-President of the United States, November, 1860. The campaign opened in Maine. Senator Fessenden's health was very delicate now, and he did not take part early in the campaign, but went into the woods in August to

catch some trout. He camped out a few days and was much benefited, though not permanently. He commenced making speeches in the campaign in the week of August 19 and followed it up until election day, organizing the Republican campaign and speaking in different parts of the State. The election in Maine was a tremendous Republican victory. His foresight in political matters is indicated by this letter written just before Mr. Lincoln's election : "I regard Mr. Lincoln's election as a moral certainty ; we shall probably have both branches of Congress against us, but this I shall not look upon as a calamity as things are. We shall have the power to prevent an evil without the responsibility of a failure to effect what we desire. If things are well conducted this will aid us, and in the next Congress we shall have the power we need."

The movement to form a Southern confederacy was begun as soon as Lincoln was elected. South Carolina adopted the ordinance of secession, December 20, 1860. By February 1, 1861, six more States had followed her example. The President ascribed the existing trouble to the anti-slavery agitation, and advised further concessions to the South. The Republicans had no power of legislation. With irresolution in the government, secession increasing, and much Democratic sympathy in the North for the secessionists, doubt and dismay began to spread among the people. At the opening of Congress many propositions of compromise were made, most of them involving a surrender of Republican principles ; but two thirds of the Republican senators and a strong majority of Republican representatives stood firm against yielding. The Southern members withdrew from the House without any demonstration. In the Senate some of the Southern senators remained and made remarks. Senator

Fessenden was invariably opposed to any compromise. He regarded the situation as the crisis of the country, and said, writing: —

“The South seems to be crazy with disunion sentiments, and there may be an attempt at secession. My opinion is that much of the noise is got up for effect in the hope that the North will be frightened and the Republicans induced to falter and thus lose the confidence of the people in their firmness and capacity. Of this there is little danger. I, for one, am resolved to stand just where I am, come what may. As to peaceable secession, there is no such thing, and if war comes, it remains to be seen if we have a government and where the strength lies. It is quite evident that the leaders of the Southern secession party are anything but happy. They would gladly retreat from their situation. Ruin is staring them in the face. Whatever may happen to the people of the free States, there is nothing before the South but destruction. The movement at the South is now in the hands of the rabble. We shall not yield. It is a question which has but one side, for the cause of Freedom is sacred. We cannot sacrifice it to menace and clamor, and would not if we could.

“This scheme of disunion was in its commencement but a renewal of the old dodge, viz., frightening the free States into an abandonment of their position in the hope thus to disgrace and break them down. The Southern mind had been carefully prepared for this by inflammatory and false statements as to our principles and purposes. It was supposed that the great business suffering in the free States would compel the Republicans to yield and make some degrading compromise, resulting in their overthrow and the reestablishment of Democracy. We are made of sterner stuff than the old Whigs, and will not yield an inch under menace, come what will. I am not sure but that

the trouble thus brought upon the country may paralyze us, but we consider this as the final struggle to reestablish correct principles of government, and we shall stand by our platform, disunion or no disunion, to the bitter end. The secession of South Carolina, if it goes no farther, is simply ridiculous. If Mississippi, Georgia, Alabama, Florida, and Louisiana join her, still the effort will be a puny one, but if all of the slave States are dragged into the vortex, the result will be a separation. I will not yield an iota of our principles to avoid this catastrophe, for it is a question for all time. New England by herself has all the elements of happiness and power, and I would rather belong to a small and free State than be subject to an oligarchy so overbearing and tyrannical as the slave power. I will watch, therefore, the course of events, averting all the evil I can, but resolved not to do evil in order to avert suffering."

Many important people in the North, and people whose opinions were entitled to respectful consideration, wrote to Senator Fessenden to yield, expressing horror of war and a fear that it would ruin business, etc.; but his Republican constituents were almost unanimous in favor of standing firmly. One letter is found among his papers advocating concession, bearing his indorsement, "The only mean letter from Maine."

Hon. William Willis, his old law partner and faithful friend, wrote that "a few wealthy men were shaky, but the people stood firm. The victory must not be lost by submission to the vanquished. Though a conservative, I would not yield a principle. If the Union is to be saved only by putting the government into the hands of the minority, it is not worth maintaining." Mr. Fessenden's reply was as follows:—

"December 22. Your letter was quite welcome. In these

times I am glad to get an encouraging word, especially from calm and moderate men, for I fear sometimes that indignation may get the better of my judgment.

“We have troubles and rumors of worse to come. If the Southern gentlemen are to be believed, one half the slave States are already out of the Union, and the rest are sure to follow. In our committee-room, for instance, Mr. Toombs says his State now feels no interest in the tariff, but he votes to postpone it to the 4th of March in order that no harm may be done the country while Georgia does remain a part of it. Even Mr. Hunter *fears* that by the middle of January the Republicans will be strong enough to pass any bill they like. There is much of this kind of flourish, but there is great anxiety to have the Republicans do something, make some proposition, and not stand still and see the country go to destruction. They ‘don’t think there is much hope, but if the Republicans would tender sufficient guarantees, perhaps the thing might be deferred a little longer.’ Any man with half an eye can see what all this means. It was begun for the purpose of frightening us into an abandonment of our position, thus strengthening the South and disgracing the Republicans. Unfortunately, however, the public mind had been so excited and poisoned that the leaders soon lost control of the movement, and they are now pushed on in their own despite. They are not happy. Jeff. Davis says as little as possible, and there is an affectation of ease about most of them which indicates concern of mind. We cannot conceal from ourselves that the country has suffered and must suffer still more. But I regard this as the crisis of our fate. Concession under menace would be fatal to us as a party; and what is vastly more and worse, it would prostrate the North forever at the feet of slavery. It is only by preserving a firm and un-

compromising attitude that we can rescue the government from its downward tendency and place it upon the side of freedom where the fathers designed it should stand. While, therefore, perceiving and fully appreciating the danger, I am not disposed to avoid it by timidity or by qualifying in any way the platform of principles on which we stand. If the Union can only be saved by acknowledging the power of a minority to coerce the majority through fear of disruption, I am ready to part company with the slave States and trust God and the people for reconstruction on narrower ground, but on a sounder and safer basis."

He writes on December 29, 1860 : "Political matters are as dark as ever. The President is frightened out of his wits, and in the hands of traitors. It is rumored that Mr. Lincoln's inauguration is to be prevented by force, though I can hardly believe the secessionists so mad as to attempt it. In that event we shall have a civil war and perhaps a bloody fight at the Capitol. Be it so, here we are and here we shall remain, unyielding and inflexible. What I have left of life is at the service of my country. I hope, however, that the storm will blow over and that these Southern fools will not attempt to pull down the fabric which, if it falls, will surely bury them in its ruins.

"The meanness of these Southern senators is beyond all power of expression. With their States out of the Union, as they say, in open rebellion, they remain in their seats with the avowed design to obstruct legislation and receiving pay for it from the government they are striving to overthrow."

In another letter at this time he says : "If at this crisis we who have fought this great battle allow ourselves either to be frightened or cajoled, all is lost. We shall lose the confidence of the people, who will justly despair

of future redemption. For one, I mean, while doing and saying nothing to aggravate the evil, to carry out to the utmost the principles of the party, yielding nothing to clamor and threats of secession. While I am willing to concede all that can be justly claimed, I rejoice in the belief that Maine is true to her principles, and will stand by her delegates in upholding them, come what may." Like the other Republican senators, and in accordance with a common understanding, Senator Fessenden refrained from speaking that he might not add to the prevailing excitement.

Writing home January 2, 1861, he says: —

"As to making a speech, I have wanted to do so for two or three weeks, but have been detained by a general impression that I had better hold back a while longer, and more by absolute inability. Whether I shall speak at all is now uncertain, but I am prepared to speak at any time, and shall tell the truth, or try to. Our friends are generally right and firm, but it requires some watchfulness to keep them so. The public mind is so feverish; if we can only work through this crisis, and not yield to the tremendous pressure brought to bear upon us from all quarters, I shall have great hope of ultimate success in the purpose for which our party was formed, and I care little what becomes of the party itself, when the great objects are accomplished."

One of the last peace measures to come before the Senate was the report of the Peace Conference. It involved some surrender of the Republican position, and Senator Fessenden opposed its adoption. He was a member of the conference, but did not go to its meetings, being convinced from the outset that no good results would come from it.

In the South, at this time, Senator Fessenden was

reputed to be one of the most determined adversaries of compromise in the Republican party. The "Charleston Mercury" represented him as the most dangerous man in the country. Mentioning this fact in a letter, he said :—

"Well, the great majority of Northern representatives in both houses of Congress seem to be of my opinion, and I thank God that most of them stand firmly by their principles and will do so to the end."

At this time, in January, 1861, Mr. Seward made his speech which involved some abandonment of Republican principles and some weakening of their attitude towards slavery. It caused many Republicans to believe that he would sacrifice the principles of the Republican party for the sake of preserving the Union with slavery. On January 31 Mr. Seward followed it with another speech in the same tune, in presenting an imposing petition from citizens of New York, praying that Congress would exercise its highest wisdom to adjust the troubles which disturbed the safety of the country. He said that before full effect could be given to the sentiment of devotion to the Union, a great many personal ambitions and sectional interests must be repressed if the Union was to be saved. He considered the question of slavery had been settled by the admission of Kansas.

This speech, in which Mr. Seward treated the question of slavery in the Territories as settled and spoke of the Republican platform as being as sectional and factional as the platform of the Southern Democrats, made Mr. Fessenden, already distrustful of Mr. Seward, very indignant, and he immediately arose to reply; but Senator Mason of Virginia obtained the floor and made a severe attack on Mr. Seward. By the time Mr. Mason had finished Senator Fessenden had cooled off, and thinking it wiser, as appears in one of his letters, that no difference should appear

among Republicans, he decided not to speak. In writing about it, he said :—

“Mr. Seward’s speech, on presenting the New York memorial, was considered as an abandonment of our party ground, and but for Mason’s bitter attack would have been replied to and denounced by Republicans. I tried to get the floor before Mason, but failed, and was afterwards very glad I did, for I was very angry. I fear that he and some of his followers would disgrace themselves if anything could be gained by it ; but the ultra South will accept nothing which can be conceded, and the Democracy of the North is doing all it can to encourage the disunion for the purpose of disgracing us. This is getting so apparent that even Mr. Corwin is becoming enraged and talks fight. This may save us, but most of us are in no danger.”

Writing home February 10, 1861 : “I do not know whether I will make a speech or not. I am quite prepared to do so, but opinions vary as to what is best to be done or said just now, particularly while this *peace* Congress is in session. I am anxious to express some of my opinions with a view to keep up our friends at home, but what would be best for that latitude would not do so well for another, and some noble fellows, such as Etheridge and Winter Davis, beg so hard for aid that it is difficult to refuse them the benefit of *silence* where we can give nothing more. Perhaps I may make a short speech of an hour or so before the session is over, but that will depend on circumstances. My own position would seem to require it, but that is of little consequence. I do hope that the Republicans of Portland will not allow themselves to be debauched and divided by their fears. Let them stand firm like men and not tremble and shake before rebellion. They ought to see that their own salvation depends on their firmness. The country cannot be saved by acknow-

ledging that its government has no power to protect itself."

In the middle of this session, Senator Hunter resigned the chairmanship of the committee on finance. His resignation placed Senator Pearce at the head of the committee. His health, however, was poor, and he requested Senator Fessenden to take charge of the appropriation bills on the floor of the Senate. Senator Fessenden accepted this trying position, requiring much firmness and persistence to enforce the rules of the Senate against improper amendments.

An example of this kind of debate is to be found in the Civil Appropriation Bill, which Mr. Fessenden reported from the committee on finance on February 15, 1861. Various propositions were made. The Smithsonian Institution was attacked as useless and was defended by Mr. Fessenden. There was a discussion on the amount to be given the President to enforce the law for the suppression of the slave trade. One senator wished to adjourn because it was Washington's birthday (the bill having been called up on February 21). Mr. Fessenden thought the memory of Washington could be best honored by attending to business. Mr. Douglas attacked the committee as unfair because his amendment was rejected, and Mr. Fessenden defended the committee. Mr. Bayard, Mr. Bragg, and Mr. Greene offered different amendments, which Mr. Fessenden resisted and the Senate rejected. He resisted the amendment, proposed by Mr. Polk, to pay a claim of the widow of a former senator, and he successfully resisted amendments proposed by Mr. Douglas, Mr. Clark, Mr. Rice, and Mr. Pearce. A glance through this debate shows that in this session, the first in which Mr. Fessenden had charge of the appropriation bills, he exhibited those qualities of plain speaking and firmness in debate which made

him conspicuous during the next six years, while he was chairman of the committee on finance. Nearly one half of the senators attempted to get amendments on the bill which were contrary to the rules, and he was obliged to state to the Senate that he thought it his duty to object to motions which he thought were out of order; that he had acted on the principle that he believed the amendments to be contrary to the rules, and had been again and again decided to be out of order; that no senator had a right to feel it was a personal injury when a point of order was raised against his amendment. No feeling ought to be entertained against a senator whose duty it was to keep the bills in his charge clear of what was objectionable.

He continued in this position, being the spokesman on the floor of the Senate for the appropriation bills as they came from the committee. He also proposed, himself, to amend the bill authorizing the Baltimore and Ohio Railroad to extend its Washington branch to the Potomac River. His amendment looked to the protection of public rights of navigation and the preservation to the city of Washington of the right of taxation. Another bill for a Pacific railroad, having passed the House, came before the Senate, and Senator Fessenden secured a proviso to the bill retaining in Congress the power to legislate for the railroad in the future and preserving control of it.

He writes home: "We have become so accustomed to the secession movement that it frightens nobody. The leaders look much more anxious than the Republicans. My great anxiety is lest the spirit of trade in our large Northern cities should so operate as to frighten our people. Coupled with the necessity we shall be under of disappointing many who want office, it will afford a powerful lever for our enemies in the state election. If our party

shall pass through the crisis without material injury it will stand anything the Democrats can do hereafter. Secession is getting a check in various quarters, and our seceding friends are finding it is much easier to raise the devil than to lay him. Apprehensions of violence are lessening every day. General Scott's dispositions are having their effect, and the rowdies are becoming conscious that sharp eyes are on all their movements. Information comes to us from various sources that Maryland is saved for the Union. Still should Virginia secede, there would be danger that Maryland could not be held back. I am more encouraged by the signs of discomfiture exhibited by certain very sly and quiet gentlemen here than anything else. They are evidently not at ease. Our firm attitude has disconcerted them. If we can only hold out and our friends at home do not flinch, I am confident that all will come out right in the end, though we may have a hard struggle, and may see much suffering. We went through the counting and declaring the votes quietly and safely. This was the turning-point, for nothing can now prevent Mr. Lincoln from being president if he lives. He may take the oath where he pleases. If the secessionists design violence at any point, it should have been precisely on the count. I have no doubt that violence was contemplated at one time, but the result of the election in Virginia and other border States, added to General Scott's military preparations, suppressed the idea. There is no danger of an outrage on the 4th of March. Mr. Lincoln will be peacefully inaugurated, and then everything will depend upon his wisdom and tact.

The last night of the Thirty-sixth Congress passed, marked by the determined silence of the Republicans, the pathetic sorrow of Mr. Crittenden that the Senate of the United States should pass no measure to prevent the

impending dismemberment of the States, and the declaration of Senator Douglas that the Republicans had virtually abandoned their aggressive policy with regard to the Territories and had done as much to pacify the South as could be expected. Lincoln was inaugurated without disturbance the next day, delivering the immortal address which he hoped would bring back to reason the seceding States, but which seemed only to stimulate secession. The peaceful accession of the Republicans to the control of the government afforded immense relief to the North, but there was still great uncertainty as to what the administration would do. In all the great cities, especially among public men, it was hoped that a compromise would be effected. It needed the subsequent firing upon Fort Sumter to unite all parties in a determination to put down secession by force of arms. Republicans who favored a vigorous policy seemed temporarily out of favor. Conciliation was the popular term. Mr. Lincoln believed that gentleness and a conciliatory attitude would prevent secession.

The first business of the new administration was to put the government into the hands of its friends. The Senate was called for an extra session on March 5, 1861. The Cabinet selections were not approved by a majority of the Republicans in Congress. Senator Fessenden exerted himself anxiously to have Mr. Chase appointed secretary of the treasury, as he believed this to be the most important of the Cabinet appointments in view of the probability of a war. On March 12 Senator Fessenden offered a resolution that, certain senators having announced that they were no longer members of the Senate, and having withdrawn from it, their seats were vacant and the secretary directed to strike out their names from the roll of members. The last debate between Fessenden and

Douglas took place at this session. It was an earnest and animated one.

Senator Fessenden wrote home as follows about this brush with Douglas, in a letter of March 17, 1861:—

“You will see by the papers that I have had a brush with Douglas in the Senate. He has been trying to pick a quarrel with me for some time on account of a rap I gave him some time ago, to which he found no reply at the time. He found no occasion. I therefore made one. Fortunately he did not succeed in throwing me off my ground, and people say that he got awfully drubbed. Even his partisans in the gallery laughed at him. My friends here are very well contented with the result.

“Our poor President is having a hard time of it. He came here tall, strong, and vigorous, but has worked himself almost to death. The good fellow thinks it is his duty to see to everything, and to do everything himself, and consequently does many things foolishly. Everything in the way of office goes West. We shall hardly get the pairings of a toenail in New England, and many people feel hardly about it. I have been to see him two or three times, but stayed but a few moments each time, as I was pained and disgusted with the ill-bred, ravenous crowd there was about him.”

A few weeks afterwards Senator Douglas returned to Illinois, convinced that the seceding States were determined to break up the Union. With patriotic courage he made a bold speech, urging all men to sink their party ties in the impending struggle, declaring, “There can be no neutrality; only patriots and traitors.” These were almost his dying words, — he died from a sudden illness a few days afterwards, — and they rallied his great Democratic following to the fight for the Union and were of incalculable value to the country. Senator Browning suc-

ceeded Senator Douglas, and says that not long after the Lincoln and Douglas debates, in a conversation with Douglas, the latter reviewed the characteristics of the leading men of the country whom he had known. He spoke of Lincoln, Cass, and others, and finally said, "Henry Clay was the most fascinating and Daniel Webster the most powerful orator, John C. Calhoun was the logician of the Senate, but William Pitt Fessenden is incomparably the readiest and ablest debater I have ever known."

An interesting dispute between Messrs. Fessenden and Douglas occurred at the special session which began March 5.

Very early in the session Mr. Douglas made a speech upon President Lincoln's inaugural message, saying he construed it as a peace message. Mason and Wigfall debated the subject with him and maintained it meant war upon the seceded States. They attempted to question him, but his answers proved his great superiority to them in debate. Mr. Breckinridge delivered an elaborate justification of secession which Douglas completely answered. The Republicans did not participate in these discussions. Mr. Douglas then introduced a resolution calling upon the government to communicate to the Senate information of what forts and arsenals in the South remained in possession of the government and what force would be necessary to retake such places as were held by the seceding States. Upon this resolution he delivered an elaborate speech, calculated to provoke a discussion of what the administration was going to do. He argued that the President was not going to make war upon the seceded States, because the Republicans had passed no measures during the late Congress to confer the necessary powers upon the President. He asked if estimates which would amount

to more than three hundred million dollars had been made for keeping a large number of men in the field. He did not believe a tariff could be devised which would raise one hundred millions a year. It would require a quarter of a million of men and exorbitant taxation levied upon one half the people to subdue the other half. The policy of the Republicans should be proclaimed to the world that the people might decide upon it. He taunted the Republicans with their silence, asserting that they had plotted to keep silent and prevent him from speaking. He congratulated them that they had come over to his doctrine of non-intervention with slavery in the Territories, and they had therefore passed no bill to prohibit slavery in New Mexico. Peace, he declared, was the only policy to save the country. He asserted there were disunionists among the Republicans who would like to break up the Union, but he hoped peaceful counsels would prevail.

Mr. Wilson of Massachusetts replied briefly but severely to Mr. Douglas, "pointing out that the administration had been in power only ten days; there was treason in Congress, in the army, and in the navy; the President had delivered a kind and patriotic inaugural; the senator from Illinois at once stepped forth unasked to give an interpretation. Without waiting until the administration had time to see what it would do, he brings in a resolution asking it to declare its purpose. The senator was not the exponent of the administration; when it spoke it would speak through those in whom it had confidence. He considered the senator's speech as mischievous."

The Republicans had no confidence in Mr. Douglas, and they regarded his speech as uttered solely to maintain his own political importance. The President and Cabinet had not been in office long enough to become acquainted with their own situation. There were great differences in

public opinion. The executive arm of the government was almost powerless. The army and navy were scattered. It was not known who could be depended upon. The administration was in a most difficult position, anxious to do no act that would kindle a civil war, yet desirous to preserve the authority of the government. Affairs had not reached a point which banished uncertainty and enabled the government to decide upon its course.

The sharp controversies which had occurred in the previous session between Mr. Douglas and Mr. Fessenden had left the relations between the two senators unfriendly. Mr. Douglas had always been overbearing and even insolent towards the Republicans. Mr. Fessenden would never suffer it towards himself, and was quick to reply to anything discourteous from Mr. Douglas. Their previous controversies had perhaps made each more ready to take up a defiance from the other. But in this debate Mr. Fessenden had no idea of participating. He was listening to the reply of Douglas to Wilson, when an accident brought him into the discussion. Wholly unexpected as it was, it made the reply appear the more conclusive, and it was heard with delight and approval by the Republican Senate, which had just been criticised and taunted by Mr. Douglas. In reading the debate, it may seem as if Mr. Fessenden was too insistent on his point that Mr. Douglas ought to admit his mistake, but it should be understood that Mr. Douglas's manner was so dictatorial that Mr. Fessenden was compelled to insist, or appear to be in error.

In his rejoinder to Mr. Wilson, Mr. Douglas unintentionally said he "took no exception to the irritating, petulant personal attacks of the senator from Maine, as he had long been accustomed to them." Mr. Fessenden, supposing that Mr. Douglas had said "the senator from Maine" when he intended to say the "senator from Massa-

chusetts," rose to call his attention to the slip, when Mr. Douglas denied flatly that he had said it, asserting his language was "whence they came" and not "senator from Maine." Mr. Douglas's tone was so disagreeably positive that Mr. Fessenden persisted that he used the language, as everybody so understood it, that he merely desired Mr. Douglas to acknowledge that if he did so he did it unintentionally and meant the senator from Massachusetts. This Mr. Douglas would not do, saying the senator from Maine was mistaken; that when he said he did not allude to him he should have accepted it; that the senator from Maine seemed to think that he, Douglas, meant him; that he attached more consequence to himself than others did; that he was a respectable gentleman, of respectable talents in debate, but there were others in the Senate beside him. He then accused the Republicans of trying to prevent him from speaking, but they could not play the gag game upon him.

This attack upon Mr. Fessenden excited everybody's attention. The galleries were crowded with people drawn to the Capitol by the announcement that Senator Douglas was to speak. All of the senators were at their desks. When Mr. Douglas indulged in his allusions to Mr. Fessenden, it was felt that a personal controversy was coming, and senators and galleries disposed themselves to listen. Before Mr. Douglas was completely seated Mr. Fessenden rose to reply.

He said he had only called the senator's attention to the fact that he had unwittingly, as he supposed, said the "senator from Maine" when he meant the "senator from Massachusetts." Everybody heard the senator say it, and his only object was to correct the senator, that he might admit the error. He supposed it to be a slip of the tongue, and took no exception to it in any way? But

it resulted in the senator speaking as he did, and about what gentlemen do and do not. He made no pretensions to be more nor less a gentleman than others. He thought gentlemen did not make pretensions. Mr. Douglas asked if it was not the invariable rule to accept from a gentleman his own correction. Mr. Fessenden answered that if he had admitted that by a slip of the tongue he had said one thing when he meant another —

Senator Douglas hastily interrupted to say, "I did not admit it because I now say the statement is false."

The Vice-President: "The senator is out of order."

Senator Douglas: "And he knows it is false."

The Vice-President: "The senator from Illinois is out of order."

A profound stillness followed. Mr. Fessenden remained standing during the interruption. He paused a moment until Mr. Douglas was seated, and then proceeded amidst breathless attention. He said: —

"The senator apparently wanted a personal quarrel with him, but he would fail here at any rate. If the senator chose to use unbecoming language with deliberate design, language unbecoming a senator or a gentleman, which no man would use without a proper provocation, he would fail to elicit from him a reply of the same description in this place, here in the Senate.

"Now, sir, all senators on both sides of the chamber would bear witness that he had said nothing at which the senator had a right to take any exception. He had simply called his attention to the fact that he had unwittingly said what he did not intend. It was heard by all the senators. Nobody supposed it was said intentionally, but instead of making the explanation the senator denied it." "It did not offend me at all," said Senator Fessenden, "for I supposed it to be an error. But instead of accept-

ing that, the senator proceeds to make an attack upon me, and talks about the senator from Maine in the language of condescension, — that he was a gentleman of respectable talents and a respectable debater, that he sometimes listened to with pleasure. He spoke with infinite condescension, looking down, although ordinarily he might look up on me! humble as I am, and compared my humble state with his own. I make no pretensions to anything more than respectability, and do not compare myself with the magnificent senator from Illinois. I admit him to be just as great as he chooses to consider himself, but I cannot admit him to be a gentleman, for he has used language without provocation which no gentleman should use.

“I did not regard it as necessary to reply to the prepared and labored speech of the senator. We all understood its object perfectly well. We were willing that he should take his own views of things, but we did not mean to be drawn into a position we did not mean to occupy. What is the fact? Since I am forced upon my feet in this way, I will allude to the senator’s speech. The senator assumed to be the exponent of the President before he was warm in his seat. He declared the inaugural was a peace inaugural and got up a controversy with his own side of the chamber upon that subject. We let that pass. A few days after he makes another speech and assumes there is a combination on this side of the chamber to prevent his speaking. Why, sir, we have been here long enough to know that since the Almighty has given him the power to speak, nothing short of divine power could prevent his speaking. His power of lungs and expression are beyond those of any man who has ever traversed this country from one end to the other to enlighten the people, and we all know very well he never omits an opportunity to do it, whether people want to hear him or not.

“What is the object of the senator from Illinois? A very few days have elapsed since the President came into power. He made a peace address to the people, as the senator admits. If he believes it to be true, why not be content with it? Why does the senator come in here and make a speech, the tendency of which, if he will permit me to say it, — or whether he permits me or not I will say it, — the tendency and design of which is to make the country believe it is about to be plunged into war by the act of the administration? Why does he talk of how many men it will take to subjugate the South? Of two hundred and fifty thousand men to be raised to attack the Southern States. Of three hundred millions being necessary to arm and equip them? Where does he get that information? Has any such been communicated to Congress? There has been no such information, no such declaration from any authoritative source whatever, and the senator knows it well.”

Mr. Douglas said in the course of his speech, “I have heard the question put, ‘Have we a government?’ That question was put by every tyrant who sought to keep his feet on the necks of his people. It was the question put by King John at Runnymede, by Charles I and James II when they trampled on the liberties of England, and by George III in our Revolution. The history of the world condemned the wickedness of a government which drew its sword upon its own people when they demanded guarantees for their rights.” This part of his speech was turned upon him by Mr. Fessenden in the following passage : —

“I ask again what is the object of this speech, of all these intimations running through it; of these declarations of patriotism, of love of country, of attachment to the Union; of insinuations—of more than insinuations, of

charges—that on this side of the chamber there are men who desire and who design the dissolution of the Union? Why does he take the position he does with regard to the seceded States and compare them to the barons of England when they wrested Magna Charta from John; to the revolted English who attempted and who succeeded in protecting the liberties of their country against Charles and James; aye, and to our own ancestors who fought the battle of the Revolution? Is he prepared to defend the secession of those States? Is that the battle they are fighting? Does he justify these seceding States? Else why does he place them in that category and the rest of the people of this country who are standing by the Constitution and endeavoring to protect the Union, as those who are trying to wrest the liberties of the people under the Constitution from them? What is the object but to inflame the suspicions of the people; to arouse their spirit and the anxieties which are now about being lulled to sleep, and which soon will be utterly exterminated by the peaceful yet firm course of the administration which they have chosen. Why seek to inflame all these slumbering animosities at a moment when there is a prospect we shall have no more of them, and before the administration which we have inaugurated has had time to tell the country by a single act what it meant to do? Why is it brought forward here in the shape in which it is, sir, there upon your table, in this resolution, at a mere executive session of the Senate, when we have no power of legislation whatever, when nothing we can do, nothing that we can say, nothing that is in our power, can have any potency for any purpose or for any object? Why does the senator come here with this resolution, placing himself and standing upon idle rumors which he picks up about the streets, upon communications in newspapers,

upon nothing which the administration has said, nothing which any senator has said, — assuming a lie, — to charge, in fact, that there is danger of this country being plunged into war, when in the very same breath the President has said he means peace and he believes him.

“Sir, we choose to be silent. We are not to be drawn into a flame by the ravings of every politician in this chamber or out of it. We do not regard the senator’s words as so potential that inferences are to be drawn to our disfavor if we do not notice them. We do not think the country hangs upon his words. We are disposed to wait and see what the President chooses to do.

“What is the object of the senator’s resolutions? It is to found a speech upon it; to make the country believe that it was in danger, that the President did not believe what he had said, or, if he did, that his party would not allow him to do what he wished to do upon the subject. I think the object was the speech and not the information, because the senator is — I cannot withhold what I was about to say on account of this controversy — the senator is more than respectable in point of ability, very much more, and therefore he knows well that we should not suffer a resolution of this sort to pass.

“I shall make no reply to the senator’s hundred times told tale of non-intervention. He assumes that we have placed ourselves under his banner and congratulates himself upon the fact. It strikes me it would have been the part of a magnanimous man to have rested content with that triumph, to have been quiet with the knowledge that public opinion had settled down upon him as the great exponent of true constitutional principles, and having saved the Union have left it to others to sing pæans to his praise.

“When the senator assumes and takes it for granted

that we could have passed any bills during the last session, I will not say that he knew he was stating what was not true, but I will say that if he had given himself time for a moment's reflection, he would have been aware that everybody about him knew it was not so. There never was a day when we had a majority in this chamber. We could not pass a bill without the aid of senators from the other side. We could not pass the bill to give the President authority to close the Southern ports as ports of entry. We knew what we could do and what we could not do. We are 'respectable' enough on this side of the chamber to know how much we could accomplish.

"I regret that the bill with reference to the collection of the revenues was not passed. The senator's labored argument upon that subject has added nothing to what was said by the senator from Louisiana early in the session, who went over the whole ground. Part of it is very correct and part of it is not. Let it be enough to say with reference to these things that the President has declared he will not make war upon anybody. He has declared it his intention to execute the laws of the land legally and constitutionally. There has been no declaration of war on this side of the chamber. War has been cried on the other side. It has been one everlasting reiteration of the word to draw us into a discussion of that subject. We chose to be wise according to our own ideas of wisdom, and not to be taunted into saying what we did not mean to say.

"Now, sir, having said this much, and having again told, as I do now, the senator from Illinois that his whole attack upon me was entirely unjustifiable, and that I neither said nor intimated by word or look anything that was disrespectful to him to bring upon me such a torrent of wrath and abuse, I end, not by moving to lay the resolution upon the table, but by saying I leave it for others to do."

Mr. Douglas rejoined by saying that courtesy required that a speaker's own interpretation of his own language should be accepted, and it was owing to Senator Fessenden's persistently attributing to him what he did not say that he used offensive language. In his speech he had assaulted no one, but the other side thought they could promote their party purposes by making personal attacks upon him. As the senator from Maine had indicated he would settle the matter elsewhere, nothing need be said on that point.

Mr. Fessenden then said he had not intimated he should settle this question elsewhere, or anywhere. The senator could not place him in a position of that sort. He made it a rule in the Senate to insult no man, especially gentlemen who held certain notions with regard to what they called their code of honor. He did not know whether the senator from Illinois was one of them.

Mr. Douglas interposed to say the gentleman would be informed very promptly on making the inquiry in the proper way.

Mr. Fessenden : "The senator need not fear — fear is not to be applied to anybody."

Mr. Douglas : "Of course not, but I do not recognize the propriety of putting that question in this mode."

Mr. Fessenden : "Very well, sir. I say that the word fear slipped out of my mouth. I do not apply that to anybody, especially to the senator from Illinois. His courage is so well known that of course I could not for an instant think of applying the word to him. I mean that he need not apprehend — and I use that in a very delicate sense — any message from me on the occasion.

"With reference to the senator's intimation that I should call upon him outside of this chamber to explain it, I made no such intimation. I made my answer here. No

gentleman will deliberately insult another, and if he does and finds he is in error he will apologize for it. While I am ready to meet my responsibilities here or anywhere, to the best of my ability physically and otherwise, everywhere, I shall not call upon the senator, although he used language which upon his code would call for something more. I hold that I will insult no man, and especially no man whom I believe to recognize a code different from my own, because in doing so I should do an act of cowardice, and I say to the senator that a gentleman who recognizes a code different from my own and deliberately rises in his seat and insults me when he knows and believes that the only reply, if it comes at all, will be in language of the same description, is a greater coward than I. If I reply to an insult deliberately given me, I am not responsible in any form."

Mr. Douglas replied that no man would controvert the remark that no gentleman would deliberately insult another without provocation, and not apologize as soon as made conscious of the error. He had many a time, after a hasty remark, in this Senate, voluntarily apologized. He denied that in this case he had given provocation. The senator was bound to accept his explanation and not persevere in attributing to him language which he denied having used. He could appeal to his record of fourteen years in the Senate that he had never made a personal assault except upon provocation. The senator had made personal assaults upon him.

The controversy would have ended here, but Mr. Hale of New Hampshire quoted a Bible verse upon Mr. Douglas which raised a laugh and again exasperated him. He angrily said that the senator's quotation was good proof of a purpose to avoid the issue and make personal points against him. There was plainly a prearrangement. The

senator from Massachusetts led off, the senator from Maine followed, and then came the senator from New Hampshire with his prepared quotation. He knew the scheme of those gentlemen, and he did not mean they should plunge the country into war.

Mr. Douglas resumed his seat evidently angry and discomfited. The Senate, smiling over the controversy that had happened, immediately adjourned. The Republicans were greatly pleased with the result of the debate. Even the believers in the "code" said that Mr. Fessenden was right in his position.

Two gentlemen, strangers to each other, were sitting side by side in the gallery, listening to the debate. One was a warm friend of Mr. Douglas, the other was an equally warm friend of Mr. Fessenden. In the course of Mr. Douglas's main speech, his friend turned to the other gentleman and expressed the greatest admiration for Mr. Douglas, saying he was the ablest man in the country, and nobody could meet him in debate. Mr. Fessenden's friend replied that Mr. Douglas was a very able man, but there was another man in the Senate as able as Mr. Douglas, and if Douglas fell into his hands in debate, he would think the devil had got him. Nothing more was said until Mr. Fessenden was speaking in reply to Mr. Douglas, when the latter's admirer turned to Mr. Fessenden's friend, and significantly said, "I guess your friend has got him."

Note. There is no doubt that Mr. Douglas said "the senator from Maine." The official reporters so took it down. All the senators so understood it. The writer was present on the floor of the Senate listening to the debate; he heard it and was much surprised at Mr. Douglas saying it.

SPEECH

OF

W. P. FESSENDEN OF MAINE

AGAINST THE REPEAL OF THE MISSOURI PROHIBITION,
NORTH OF 36° 30'.

Delivered in the Senate of the United States March 3, 1854, on the bill to establish Territorial Governments in Nebraska and Kansas.

MR. PRESIDENT: It has been my desire, if this debate continued long enough to afford me a fair opportunity of doing so, to submit a few remarks upon the subject under discussion, or upon so much of it as relates to the repeal of the Missouri Compromise. The hour is now, however, so late that I am exceedingly reluctant to enter into this debate at all; and I would refrain from doing so altogether but for my own position and what I believe to be the almost universal sentiment of the people of Maine. As the youngest senator in this body — the senator who has most recently taken a seat upon this floor — I have feared that it might look something like intrusion in me, at any time, and especially at so late an hour, to present any remarks whatever to the Senate upon a matter which has been so thoroughly discussed, and upon which nothing new in the way of argument can be adduced. If, however, any excuse were necessary, it may be found in the fact, stated in the public press, that the legislature of my own State, a Democratic legislature, has recently passed resolutions almost unanimously instructing its senators to endeavor, by every proper means, to defeat the passage of this bill in its present shape. Under such circumstances, Mr. President, if I should suffer the occasion to pass without entering my protest otherwise than by a mere vote upon the subject, I might be adjudged neglectful of my

duty. I may add, sir, in reference to the hour, that, controlled by the consideration that until every other senator who desired to speak had been allowed the opportunity to do so, and trusting that I might have the privilege at a proper hour in the day to express such views as I might happen to entertain, I have remained silent to this time. But, sir, I understand, and it is generally understood, that the determination is to bring this matter to a final vote before we adjourn, and I have, therefore, only to avail myself of the present hour as I best may.

Mr. President, I am opposed to slavery in any form and shape in which it exists, or may exist. I am free to say, that had I been a member of Congress when the question of the admission of Missouri was brought before it, and had then entertained the same opinions that I entertain now, I should have voted against its admission, as a slave State, to the last. I am free to say, further, that had I been a member of Congress in 1850, I should have voted against what is now called the fugitive slave law; and I should have voted against any organization of the Territories of New Mexico and Utah, unless with the Wilmot proviso as a part of the bills providing for such organization. But, sir, while I say this, I may express the regret that questions such as these have come to assume now a position of mere North and South. I do not intend, on this occasion, to argue the question of the social or moral or religious effects of slavery. Sir, I have none of what is called "sickly sentimentality" on this subject. I am not a "humanity-monger," in the language of the honorable senator from Georgia; that is to say, I am not a man who makes a trade of humanity; but when I say this, I hope that I may be allowed also to say one more thing, and that is, that I respect the "humanity-monger," a man who makes a trade of it, quite as much

as one, if such an one can be found, who has no feeling at all upon the questions of slavery as it has existed, and continues to exist, in so large a portion of these United States.

While I do not intend, Mr. President, to make any extended remarks in relation to that part of my subject, for the very sufficient reason that the right to argue a question of that kind seems to be confined to Southern gentlemen, and that when a man from the free States, according to my observation, rises here to speak on the subject of slavery in its relations to humanity, he becomes at once a "humanity-monger" or a sickly sentimentalist or a fanatic or something of that kind, while at the same time it seems to be perfectly right and proper that the other side of the question shall be debated at any length, at the desire or convenience of gentlemen — although, I say, I do not intend to enter into that question, I must be permitted to state to the honorable senator from Mississippi (Mr. Brown) that the people of my section of the country do not agree with him, and would not be much affected by the picture which he has presented of the peculiar social advantages of the institution. Sir, in the portion of the country from which you and I come (Mr. Foot being in the chair), labor of any kind, if it be honest labor, is honorable. In that section of the country all men are equal politically. Their social relations, and their social condition and position they make for themselves. Every man must find them or make them, as he can ; but it militates nothing against his social position, although it may change the social sphere in which he moves — it is nothing that derogates from any political right or any social right or any other right that he has — that necessity compels him to labor ; aye, sir, and compels him to labor in a menial employment. In my country a menial

employment, if it is an honest employment, pursued from necessity and not from taste, however menial it may be, is honorable to a man if it be honestly pursued. We judge not the man by the kind of labor he follows or by the amount of remuneration he receives for it. If he is an honest man and labors honestly, he is more respected than one who performs a dishonest service, be the remuneration ever so high, aye, even though the reward for it might possibly be the highest office in the gift of the people of this country.

This may be a vulgar notion, and that it is a vulgarity common in that section of the country we are willing to admit. But although our people entertain these vulgar notions, they are not without others. They are a reading people and a thinking people. They have churches, academies, common schools, newspapers, and all the ordinary resources of moral and mental education. As I have said, they read and they think, and among other things upon which they entertain fixed opinions is this, that the institution of slavery is of no advantage, in any point of view, to any portion of the country in which it exists. They reason upon this subject, perhaps, somewhat from contrasts. They contrast, for instance, the States of Ohio and Kentucky, of Virginia and New York. They go back to the time when Virginia was far ahead of New York in population and power, and they look at her present condition, and see that she is not inferior in physical and natural advantages; and perhaps they draw inferences unfavorable to the institution of slavery in its effects upon the growth and welfare of a people. They have also another idea; and that is that inasmuch as they are a part of this people, inasmuch as they belong to this country and are a part of the great whole, whatever is injurious to the whole becomes a matter of interest to them. And, sir,

they believe that if an institution injuriously affects the prosperity of a part, its evils are felt throughout the whole system. It touches them as citizens, and as having an interest in the common welfare ; and they have a right to consider and think of it ; and not only that, but to express their opinions about it ; and when they come here, desiring to uphold, within the scope of the Constitution, the rights of all the citizens of the country, of all men in this country, with due respect to every compact in the Constitution or otherwise, — for they are a people who regard compacts, — they have a right to think and speak as they please on this subject of slavery, as every other, through their representatives in this branch of Congress or the other. And this right they will exercise.

But, Mr. President, I go further, and say that, call it what you will, — fanaticism, sentimentality, or any other name that may be most satisfactory to gentlemen, — we claim the right not only to speak out our opinions in relation to the institution of slavery, whenever our interests, as a part of the great whole, are affected by it, but if there is any portion of this country where our interference is not precluded by the provisions of the Constitution, we have the further constitutional and legal and moral right to act upon it, and to act upon it here as well as elsewhere. And we may act, and should act, as well with reference to those great principles of justice and equality upon which our free institutions are based, as with regard to considerations touching our national or individual advancement and prosperity. Sir, I am one of those who believe them all to be so intimately blended that they are, and must remain forever, inseparable.

Leaving these general propositions, permit me to observe, Mr. President, that the people of the free States derive a more peculiar and immediate relation to this

question of slavery from the Constitution itself. On looking at its provisions, they find that the slave power in this country — if I may call it so — has had the benefit of the only inequality that I know of existing in that instrument. I allude to the principle upon which representatives are apportioned. Gentlemen all know — for every one is familiar with the provision to which I refer — that in this particular a very great advantage is given to the slave States. Its effect is to represent in the national councils that which in those States is recognized as property. If, then, this inequality exists, the free States are unquestionably interested to limit the increase and extension of such a power, so far as they can constitutionally do so, whether in old territory or new. Sir, we feel the effects of this inequality every day. We feel it in the greater degree of power exercised by the citizens of one State than is exercised by the same number of citizens of another. We feel it in that unity of purpose and concentration of action which are so much more readily accomplished among a smaller than a larger number of persons, and which we never fail to experience when the interest of slave labor and free labor are supposed to be in conflict. Sir, that unity and concentration which the predominant nature and character of this institution afford in all questions of national legislation affecting it, or affected by it, are quite enough of themselves, without superadding the weight of an unequal representation. In the free States, we have no such principle of union. Our interests, whether fancied or real, are as various as our pursuits. And thus it has ever happened that the political power of this country has been wielded and the legislation of this country moulded, by that interest which, when the occasion calls for it, can always be brought to bear with its whole force upon a given point.

Sir, I am aware that at the formation of the Constitution slavery existed in most, if not all, of the States of the Union, and hence the provision I refer to might seem to carry with it the appearance of equality. But as a matter of history, it is known that this rule of representation was much contested, and a single glance at the condition of the country at that time will readily explain why it was so. Senators are undoubtedly much more familiar with this matter than I am, for they have considered and weighed it much more than I have. Sir, on looking back to that early time, we see that the boundaries of the United States were fixed and determined. In some of the States slavery had died out, and in others, from whatever cause, it was fast passing away. The limits of slave territory and free territory in the old thirteen were then as well understood and defined in men's mind as they are at the present day on the face of the earth. Under these circumstances, known as these facts were, and with the limits of this country so specifically described and understood, it was wise for the framers of the Constitution and for the people to understand, and it is to be presumed that they did understand, just how far this inequality in the Constitution of the United States would operate upon that portion of the country which was destined to be free country. I say it was as well understood then as it is now; and that it was so has become, as we may well suppose, a matter of history. The objections that were made to that provision in the Constitution, at the time it was formed, were done away or overruled, and the North, or, as I suppose then there was no North, the free States, or those destined to be free, considered themselves, and at the time must have been considered, to have reasoned as they did reason, that the effect of that institution upon the political power of the country must necessarily be

limited by the extent of that which remained, and would remain, slave country. The Ordinance of 1787 had been passed, and was in operation, and was recognized, and that tended to render still more and still better defined how far this provision in the Constitution would operate against what was to be the free portion of this country, and how far this inequality in the Constitution was to affect the rights and interests of the North.

But, sir, in process of time, what did we see? The North has been accused here of endeavors to oppress the South and of wishing to limit the power of the South under the Constitution. Did the free States ever exhibit any disposition to limit that power so long as their action was confined to the original territory of this country? Was there any objection to the admission of Kentucky as a slave State, or to the admission of Tennessee as a slave State? Was there any agitation then upon the subject? Was there any fanaticism? Was there any objection to the admission of any one State formed out of that which was originally slave territory — Mississippi or Alabama? None at all, sir. They came in as readily, and met with as little objection from the free States of the Union as any other act of the Congress of the United States. This is all a matter of history, matter of common knowledge. Everybody knows it who is at all familiar with the history of this Union.

But the purchase of the Louisiana Territory created a new state of things. Slavery existed there at the time of the purchase. That acquisition was generally admitted at the time, and is now generally admitted on both sides of this chamber, to have been at least of doubtful constitutional propriety. The honorable senator from Connecticut (Mr. Toucey) was the first, I believe, in this debate, who said that he considered it perfectly justifiable under the Consti-

tution. It was not so considered at the time. It has very seldom been so considered since by the best authorities upon the Constitution of the country. It has been pretty generally admitted that it was, in point of fact, beyond the original intention of the framers of the Constitution, and has been justified only as a matter of necessity. But waiving that, Louisiana became the property of the Union by virtue of the purchase of 1803. I think that is the date, but exact dates are of little consequence. Soon after that — some years after — a proposition was made to admit the State of Louisiana into the Union. What was the effect of that admission? We had already four new slave States, I think, with eight senators on this floor, without objection on the part of the free States. Louisiana was proposed as a new State, to come into the Union, changing the condition of things as it existed at the time the Constitution was formed, and giving to the South more and new power, not intended nor foreseen, and not anticipated by the North or by the free States; for I am unwilling to repeat North and South so continually, as if there were no other points of compass in this country. Louisiana came into the Union as a State. Was there any fanaticism upon the subject? Was there any difficulty made by the free States then? Did they throw themselves in the way of the prosperity of the slave States? Did they make any disturbance about the “peculiar institution?” The moment Louisiana was admitted, more power than ever was anticipated under the Constitution was acquired by the slave portion of this country; but was there any objection on the part of the free States? Not at all. If the subject was mentioned, it was passed over without creating any difficulty anywhere. And why? Because it seemed to be a matter of propriety or necessity. As my honorable friend the senator from Massachusetts has said, you could not

have done otherwise, except by a mere act of abolition — by saying distinctly that Louisiana should not come in at all until it had taken measures to abolish slavery, a condition the free States did not propose, perhaps did not desire. Was there any ground of complaint here on the part of the slave States of this Union? Had they any right to say, under the circumstances, that there had been any illiberality and fanaticism, any desire to limit their power, or to confine them within narrow bounds? Soon after that, some seven or eight years, Missouri was proposed for admission, and Arkansas became a Territory. That was slave territory, too. Slaves were there, I believe, at the time of cession.

But by this time — and it is not remarkable — the free States of this Union began to inquire what was to be the end and effect of all this. Here was territory which was not in the Union at the start. Here is territory extensive enough to make six or seven or eight or ten new States of this Union, which are to be admitted, one after another, and thus, probably, to change the whole existing state of things, as we understood them to be at the time the Constitution was formed. They then took a position for the first time — and I will show, by and by, why they took that position — that no more slave States should be received into the Union. Sir, was there not some reason for it? What consideration had they received? Was not this territory of Louisiana purchased, as we are told, by the common treasure of the United States? And on the principle now assumed, that what is purchased by the common blood or the common treasure belongs to all, and must be fairly divided, was there not some reason why the North should inquire whether this thing was to go on, from one State to another, contrary to the original intention and understanding when the Constitution was

formed, until we should be at last overborne by the territory thus purchased? Was there anything remarkable about it — anything that should occasion what I have understood to be the tremendous excitement of that day, when the same cry which has since been heard in regard to the dissolution of the Union was loud all over this country, especially in the slave States, and we were threatened with disunion if the matter was persisted in? There was such an excitement, and it resulted, as these contests have resulted since the foundation of this government, in the North giving way. Senators may talk here about this matter being settled; about the North having the balance of power in its hands, which it may retain, and will retain in spite of every effort or wish to control it. But what is the fact? The fact, as shown by history, is, that there has been no conflict between the free States and the slave States since the foundation of the government, in relation to this important question, where the free States have not been obliged to yield in the end; and they have been obliged to yield because they were too much afflicted with that class of men described by the honorable senator from Massachusetts (Mr. Sumner) in his speech the other day, and for the want, moreover, of that unity of interest and purpose of which I have spoken heretofore.

The contest continued for a time. What was the result of it? It is not pretended that at that period there was a single individual citizen out of Missouri, living and established north of the line finally agreed upon, with slaves or otherwise. It was a wilderness, and there were certainly no slaves there. Therefore there were no rights of slavery there. The result was an agreement or compact, or whatever you choose to call it; for gentlemen, now, in this branch of Congress, do not seem to deny that it was a

compact. By that agreement a line was to be drawn on a certain parallel, and in all territory above that line, from that day henceforth, slavery was to be prohibited, leaving the implication that slavery might be permitted below that line. Under that agreement and stipulation, not in the form of a contract, signed, sealed, and the consideration expressed in order to suit the legal views of the senator from Connecticut (Mr. Toucey), not drawn up according to the law books, but sufficient to be an understanding between honorable men, acting for a nation, acting upon a great national question, that line was established and Missouri came into the Union. What was the result? What is the bargain? Gentlemen have spoken of a bargain. It was nothing more nor less than this: That above a certain line slavery should never go. That was the consideration. For that Missouri should come into the Union as a State unrestricted with reference to slavery. That is all. In the course of this debate it has been said that the free States broke the compact — that they objected to the admission of Arkansas. The fallacy of that statement has been proved in public print. No man now will repeat it. There was no opposition founded on the fact that slavery existed there. Mr. Adams was at the time the leading Northern man in the House of Representatives, and he expressly said that there was no such objection. No one made it an objection. So, then, with reference to the admission of Missouri itself and with reference to the admission of the State of Arkansas afterwards, senators cannot make out any breach of compact, if compact it was, on the part of the free States.

See what was done :

Look a little at what was given and what was received. On one side there were three powerful States, destined to be powerful, each at the very moment of their admission

entitled to two senators in this body, thus vastly increasing the political power of the slave States, — I speak upon this question now not as a sentimentalist, but as a politician, in reference to its political aspects and effects, — coming in at once, or within a very short space of time. They gave to Congress all the power of those States both by their senators and their representatives. What was given on the other side? A chance that, at some future day, a day which at that period was understood to be remote, far remote, above that compromise line might be formed free States. At that time the country was inhabited by Indian tribes. The title to a large portion of it was not acquired, and could only be acquired by treaty, which treaty would require the sanction of two thirds of this Senate, with all the power of the slave States in full exercise, to carry it into effect, before the lands could be occupied. And what has this government been doing since? The honorable senator from Tennessee (Mr. Bell) has informed us; and we all understand that a large portion of that territory has been set aside as Indian territory; and that, in addition to the three or four tribes of Indians — I do not pretend to know the exact number — inhabiting that region of country at the time of its cession, some fifteen or twenty more have been removed and located upon it. This, sir, was the consideration received, and it is all the consideration. On the one side, three States were admitted within the course of a few years, with all the power they could bring into this body. On the other side, was the remote possibility and contingency that at some future day, when a large portion of the country, not yet settled, could be populated, free States should be carved out of it. Am I right, as a matter of fact? I believe myself to be historically correct.

What has happened since? Florida was admitted as a

slave State into the Union, without one word of objection on the part of the free States, thus making another slave State, coming in by purchase, above or beyond what was originally contemplated in the Constitution. A little further on, and Texas became annexed to this country; and the same line, by another compact or agreement, was to be run through that territory; but what was the effect of it? The immediate admission of a large and rich and powerful State, with two other senators, giving additional political strength to the slave power; we, — I say we, because this is put as a question of North and South, — the Northern or free States of this Confederacy, having the possibility, at some future day, that we might acquire some additional free States out of the territory thus gained. I should like very much, as the senator from Connecticut (Mr. Toucey) and other senators have done, to speak for the whole country, and not for a part of it; but the difficulty is that those gentlemen from the free States, from the Northern States especially, who come here with these words in their mouths, to speak for all the country and not for a part of it, are apt to forget the part they come from; and therefore, if I would not also forget the portion of the country which I represent, I must speak of that first, and before all.

Here, sir, have been three, four, five — I believe those are all — five powerful States admitted into this Union with ten senators upon this floor, without objection, and all from newly acquired territory. Is there to be seen in this a disposition to oppress the South, to take advantage of numbers in reference to this question? Has any narrow, short-sighted policy been exhibited? I have not been able to find the slightest evidence of it.

Well, sir, the compromise measures of 1850 became the law of the land. We had acquired new territory from

Mexico and new questions arose. And, sir, although the whole of that newly acquired territory was free territory in every sense of the word, yet California could only come into this Union as a free State on the condition that two Territories, Utah and New Mexico, should be so organized that they might hereafter become slave States. Such was the compromise of 1850 in this particular. I wish senators to understand that I do not recognize that so-called compromise as in any manner binding upon me. Though a member of the Whig convention at Baltimore, which made those compromise measures a part of its platform, my honorable friend from Georgia (Mr. Dawson) will bear me witness — for we both were members of the committee which reported those resolutions — that I refused my assent to the resolution indorsing those measures. But they became the law of the land, and are recognized throughout the country as a compromise; and by those measures the South obtained all it could reasonably anticipate or desire.

Mr. President, it has been claimed for these compromise measures of 1850 that they satisfied all parties, and restored peace to a distracted country. Secessionists, disunionists at the South, men who stand, I suppose, in this particular, upon the same level with the fanatic and sentimentalist, were hardly disposed to remain quiet; but the great mass of the people, North and South, seemed willing to avoid all further agitation and await the event. Why were they so disposed? Sir, the whole country had been threatened with a dissolution of the Union. We heard much of concord and brotherly love. We of the free States, especially, were ominously informed that certain fire-eating gentlemen of the South were about to dissolve the Union within a week; and if I rightly recollect, it was dissolved some two or three times in this very chamber. At any

rate, the day was appointed ; but from some defect in the arrangements it slipped by, and the thing was not done — the bolt did not fall. Sir, it is well understood that upon that threat, that pretense, the free States were induced to yield the Wilmot proviso. I know it was argued that slavery could never go into those Territories — Utah and New Mexico ; that it was excluded by a law of Providence, irrepealable in its nature, stronger than all human laws, which rendered the Ordinance of 1787, as applied to those Territories, not only useless, but absurd. If such was believed to be the fact, what was the occasion of so much angry excitement ? Was the Union to be dissolved for a mere abstraction — an idea that, if carried out, could lead to no practical result ?

Well, sir, the people of the free States have, pretty generally, chosen to submit. As a private citizen, I have been willing to content myself with the right to abhor the institution of slavery as much as I pleased ; not wishing to interfere with it in any way within the limits of any State — either that of the senator from Georgia (Mr. Dawson) or any other ; having no desire to disturb his rights under the Constitution, or the rights of any other person, directly or indirectly ; but feeling through my whole system a great aversion to the thing itself, and laboring, moreover, as a citizen of the Union, residing in a free State, under the strong pressure arising from the constitutional inequality I have already spoken of. With these sentiments I have felt, and shall ever feel, bound in duty to resist, here or elsewhere, so far as I constitutionally may, the extension of slavery in this country to the utmost of my power — with little effect, it may be, but the obligation is no less imperative on that account.

But peace was obtained. We were a happy people. We sat down under our own vines and our own fig-trees. We

endeavored to be quiet. Brotherly love was all abroad. We met our friends from the South in perfect concord. All differences had been settled. There was no trouble anywhere. We were all, to use a familiar expression, "happy as the days are long." Suddenly, in the midst of this concord of ours, comes a proposition to take from the free States just that which had been given for all these civil, social, and political advantages which had accrued to the South — to take the little that was allowed to the free States by the compromise or compact, or whatever you call it, of 1820. This proposition presents itself in this chamber without a word to the country, without a syllable having been said, to my knowledge, at least, in any State of the Union upon the subject. Southern gentlemen on this floor repudiate the authorship of the proposition, protesting that it did not come from them, and would not have come from them — admitting, in point of fact, as I understand them, that they considered the whole thing as dishonorable in itself, and the sin of it should not be laid at their door.

Why, then, is this remarkable proposition before us? For what purpose has it come? To allay agitation? There was none. To make peace? There was nothing but harmony, says the compromise of 1850. Why was it? I am at a loss to divine. Was it to establish a principle merely? Will you set this country in a flame upon a principle? Gentlemen from the South tell us that nothing is to be gained by slavery from it. They tell us upon their honor that they think slavery cannot go into these Territories. Nothing practically good or practically evil is to come from it. And yet we find every man of them, almost, on this floor, and on this question, contending that this thing shall be done, that it is right, and that although they had received all the advantages which I have

mentioned from the previous legislation of this government, they yet demand more, and require that the compromise which set aside the whole of this territory for freedom shall, for political considerations, be abrogated and dissolved.

Sir, I have in my possession an address to the people of Maine, bearing date March 7, 1820, and signed by a majority of their representatives in Congress, among whom were Enoch Lincoln, afterwards governor of the State, and Ezekiel Whitman, afterwards chief justice of its highest court. That address states the true ground of objection to the admission of that State into the Union. At that time she equaled in size and population any one half the States of the Union. No one disputed her right to be admitted as a sovereign and independent State, as Alabama and Mississippi had been admitted, without a question. Her territory was a part and a portion of the old thirteen. She had furnished soldiers in the Revolution, and recruits to your army and navy in the second war of independence, as it was called. She had every claim to be received with open arms; and yet, sir, how was the fact? Her admission was opposed on political grounds; the opposition was founded on a jealous power. Maine was objected to without Missouri, because Maine, without Missouri, increased the power of the non-slaveholding States. For the first time, the question of the balance of power was raised, and raised by the South. And thus it happened that Maine, with her thousands of inhabitants, in full position, and having every capacity to become a powerful member of this Union, was to be and was excluded, notwithstanding the previous admission of new slave States almost without a question, unless, and until, yet another slaveholding State could come in at the same time. Sir, with such a warning, was it wonderful,

I ask again, that the free States should have begun to inquire where this was to end, and should have insisted upon a line beyond which slavery should not go? And when we find the South, almost to a man, advancing to obliterate that line, can we be at a loss to understand the object of such a movement?

The time and the manner, it strikes me, of introducing this proposition into this body are both singularly unfortunate. Why, sir, have gentlemen forgotten, on either side of the chamber, the appeal they made on this floor to the people of the North to quiet agitation? Have they forgotten all they said and prayed for? Have they forgotten the denunciations they threw out against those who causelessly or uselessly brought this country into a state of agitation? Have they forgotten the stirring appeals they made to the fraternal feeling of the free States? If they have not forgotten those things, let me ask them with what propriety can they now, when they say this is merely the affirmation of a principle; when they admit that no practical good is to come of it; when they say they expect nothing of it except to put a few words upon the statute book,—how can they, I say, with regard to their own pretensions to love of country, yield their support to a proposition like this? a proposition most carefully calculated to excite all the angry feelings that can be excited in the bosoms of Northern men. Sir, this was a compact. Will they not yield something for good faith? It is demonstrated here that the South received its consideration long ago. Will the free States feel nothing at being robbed of their portion? It is shown, palpably shown, that slavery has gained great advantages from this new territory; will you take away all the advantages you agreed some thirty years ago that freedom should receive from it?

Mr. Douglas : Who says it was a compact ?

Mr. Fessenden : Who says it was a compact ? Everybody has said so since I have been on this floor. It has been said over and over again.

Mr. Douglas : What friend of the bill said so ?

Mr. Fessenden : I cannot call names, but I have heard nothing else.

Mr. Pratt : Give one name.

Mr. Douglas : Yes, give one name. It has been called a compromise.

Mr. Fessenden : Well, I am not particular about words. If it was a compromise, what else was it but a compact, if that compromise resulted in an agreement ?

Mr. Butler : The gentleman seems to argue the question very fairly. Will he allow me to make a single remark ?

Mr. Fessenden : Certainly.

Mr. Butler : I wish to pronounce what I think is consistent with the purpose of this bill. In the Constitution—now mark what I say, the gentleman seems to trace distinctions very clearly—in the Constitution there were no such parties as North and South ; there were thirteen States entering into this Union, and under the Constitution—

Mr. Fessenden : I deny that the thirteen States, as States, framed the Constitution. It was the act of the people.

Mr. Butler : Very well, go on. I have no hope for you.

Mr. Fessenden : The Constitution was not formed by the States as States. It was formed by the people of the United States, as I have always understood it. I am not choice, as I stated, in the use of language ; and I do not care whether gentlemen admit the word “compact” to be applicable or not. I mean by that the proposition that

they made themselves, and enforced by the aid of Northern votes ; those who voted for it from the North being pledged to go home and defend it before their people, on the ground that they had received this consideration for it. That is the doctrine, and no other, and that I have heard, and is all I wish to say in reference to that point.

I hope if there is agitation, if there is excitement, if there is fanaticism, if you choose to call it so ; if there is sickly sentimentality, if you like that better, in the free States from this time forward, you will just cast your eyes back to those who made it, started it, and gave occasion for it. If you hear of cavilings at the North, coupled with denunciations of slavery at the South, recollect the state of quiet from which you brought it forth. It is not enough to tell the people of the free States that this was tendered by the North to the South. We do not admit the authority of the senator making it, though he may occupy a most eminent position, to speak for the North. He has no more authority than I have. At any rate, we repudiate him as acting for us in our part of the country. I can answer for my own State. With all the respect that the people of my State may have for his character and position, he cannot claim, and the gentlemen of the South cannot claim for him, or for any other gentlemen from the North who act with him, that he speaks for us except as far as his own State is concerned. They cannot claim for him that he has any right to tender from the North this release. And allow me to say that I do not understand that principle of honor, although it seems to be well understood here, which allows that what cannot honorably be taken directly can be grasped with honor when offered by another having no authority to give it. There may be some very nice distinctions to the minds of gentlemen. They may be able to reconcile the difficulty. They could not, it

seems, move in this matter ; they could not undertake to bring it up in any shape or form ; but inasmuch as the proposition has come here, they will not wait to see whether it is authorized by those who alone are competent to make it, but will take it at once, and settle that question afterwards. Sir, I do not understand such a principle.

Sir, what are the particular grounds of excuse for the introduction of this troublesome question at the present time ? Mark you, no practical result is expected from it. No change of position is to arise from it. Nothing is to come out of it at all, *except* the repeal of this restriction in the act for the admission of Missouri. That is all, and that all is nothing, say Southern gentlemen. Why, then, is it to be done ? Because, say several senators, that restriction is unconstitutional. But upon this point there is a difference of opinion among themselves. I understand my honorable friend from North Carolina (Mr. Badger) to say — and I have great respect for his opinion as a lawyer — that he has no doubt of the constitutionality of that restriction. I understand other Southern gentlemen to affirm its unconstitutionality.

But it is singular that, in the history of this question, the unconstitutionality of this restriction laid dormant in the minds of Southern gentlemen for more than thirty years. It is very singular that it laid long enough for them to avail themselves of the admission of Missouri as a State, or Arkansas as a State, and of Texas as a State. When the latter question came up in this Senate, not the first man, that I know of, or ever heard of, breathed the idea, or suggested it in any way, that a restriction thus fixed and determined was unconstitutional. Why did not that objection arise then ? What new light had been shed upon the country ? When did it come ? Did it present

itself at any time before slavery was ready — having secured all it at first claimed — to grasp all the remaining territory? How far is this to go? Are we next to remove the restriction in the resolution admitting Texas, and is all new territory hereafter to be acquired to be subject to no restrictions? I think the country will be led to inquire what is to be the next effect of this continued increase of slave States. Gentlemen talk of the balance of power having been secured to the free States. It strikes me that there will be some little power secured to the South, or to the slave States. But upon this question of constitutionality we have had an argument from the learned and honorable senator from Connecticut (Mr. Toucey). He was not content with the views taken by other gentlemen, but has argued the matter in full, as a lawyer. Allow me to say, sir, that upon that question I never had the least doubt. I can give a reason for it. Sir, in my early reading there was such a thing found as sovereignty. The senator from Michigan has given us an argument on the subject of this constitutional power of Congress to prohibit slavery in the new Territories.

Mr. Cass: Do you find it in the Constitution?

Mr. Fessenden: Suppose I do not; does it exist, or does it not exist?

Mr. Cass: It gives you no power.

Mr. Fessenden: Is there such a thing as sovereignty recognized by the people?

Mr. Cass: I will state to the senator that it gives you no kind of power. You are a sovereign in relation to other nations. When you want to know what you may do, you may consult the laws of nations to ascertain; but as to who is to do it, and how it is to be done, you must look to the Constitution; and if you do not find it there, it is with the people.

Mr. Fessenden : I acknowledge the very high authority of the honorable senator ; but I want to ask again, and gentlemen may answer it or not, whether there is or is not such a thing as sovereignty, the power to command, and the power to make laws ? It strikes me that there is. Well, if such a thing existed over this territory before it was ceded by France, if it did exist there when the territory was ceded to the United States of America, did or did not the sovereignty pass with the territory ? It ceased in France. Did it become extinct, or did it live and pass to the United States ? If it passed to the United States, it passed to the people of the United States. Sovereignty—what is not granted by the Constitution—is in the people. All sovereignty with us is in the people. They parted with none, except in the form of the Constitution. If it existed in the people, to whom do the people delegate that sovereignty ? How do they exercise that sovereignty ? Why, sir, they delegate it to the officers of the Constitution, whom the Constitution made ; to the Congress of the United States and the President of the United States. What sovereignty they may have, so far as they did act upon the subject, was delegated to the Congress of the United States. Is not this particular subject provided for in the Constitution ? Is nothing said about the Territories in the Constitution ? Do we not find them mentioned there ? I believe we do. I think we find it said that Congress shall have the power to make all needful rules and regulations regarding the Territories.

Mr. Cass : Territory or other property.

Mr. Fessenden : I know that it is “territory or other property.”

Mr. Cass : Not “territories.”

Mr. Fessenden : Well, the territory of the United States ; because at that time there was but one Territory.

But "Territory" is a general term. It means just as much as if it was in the plural, and said "territories."

Mr. Weller : Does not the senator regard the decision of the Supreme Court of the United States ?

Mr. Fessenden : Undoubtedly ; we are bound always by those decisions, though on one side I sometimes find that they are of very little authority ; but we will not dispute about that. I am not about to cite cases. I am speaking of what the Constitution provides ; and it declares "the Congress shall have power to dispose of and make all needful rules and regulations respecting the Territories or other property belonging to the United States."

Mr. Weller : Territory.

Mr. Fessenden : Well, territory. It makes no difference — the territory of the United States. Gentlemen argue this thing as if that included nothing but the regulation of the lands. Is not that a new idea ? How long has it existed ?

Mr. Cass : Since the decision of the Supreme Court.

Mr. Fessenden : When was that ?

Mr. Cass : Some twenty years ago.

Mr. Fessenden : I cannot dispute the gentleman. Then that is to say that there is not further power given by that clause of the Constitution than to take and acquire land. Has the Supreme Court decided that ?

Mr. Cass : I will state to the gentleman that the Supreme Court decided that "territory or other property," in that connection, meant lands. The Supreme Court decided afterwards, independently of that, that the power to regulate and dispose of the lands did include the right of jurisdiction.

Mr. Fessenden : What does the expression mean, "to make all needful rules and regulations" ? Does it mean to make laws ? How otherwise do we make rules and regula-

tions? Can Congress speak in any form except in the form of laws? What does the Constitution mean when it says that Congress shall "regulate" commerce? How? By law. What does it mean when it says Congress shall "regulate the value of coin"? How can it do that? By law, by statute. How does it make "rules and regulations" for the government of the army? By statute. How does it make "rules and regulations" for the government of the navy? By statute. Congress can make no rule or regulation except as a law. Very well, then, if Congress has power; if so much of the sovereignty and power of the people of the United States is given to make laws for the Territory, I should like to know where the limitation is on that power to make laws? The honorable senator from Michigan (Mr. Cass) himself says that there must be power to organize the government. Where does he get that from, and why do you go to necessity, when there is a positive provision found in the Constitution of the United States?

Sir, I do not deal in abstractions, but in plain and palpable provisions. "Congress shall have power to make all needful rules and regulations." Is there any gentleman here who contends that the power to organize and govern is not found under this clause of the Constitution, or, if not found there, under the general power which it has as proprietary of the land? I thought it was contrary to Southern doctrine ever to resort to mere implication, when you find a positive provision in the Constitution on the subject. I say, then, that not only is this a new doctrine, but, in my judgment, it is a doctrine unfounded in the Constitution; and I say, moreover, to the senator from Michigan, that if you carry out your doctrine of squatter sovereignty, as it is called, I see no reason why the people of those Territories may not institute a mo-

narchical form of government, or any other which they choose, as long as they continue a Territory ; because, although the Constitution of the United States guarantees a republican form of government to every State, it does not guarantee it to the Territory ; and if they have the exclusive power of legislating, and taking care of themselves, and regulating their own concerns, I see no limitation upon them until they become a State.

I am no convert to the doctrine, new as it is, that this provision, this restriction upon the slavery power, introduced into the act of 1820, was otherwise than constitutional. I believe that the similar restriction in the joint resolution for the annexation of Texas was equally constitutional. I believe that the Wilmot proviso is quite as constitutional ; and I have already said that, under my impression, I would have adhered to it. I know of no other position taken except that assumed by Southern gentlemen, who say that this restriction is at war with equal rights. We demand equal rights ; we wish to go into that Territory with our property, say they.

I do not mean to argue that matter. It has been exposed by the senator from Michigan fully and conclusively. But I would ask Southern gentlemen why they cannot go there on as good terms as we can, if they go themselves ? It would be a pertinent inquiry how many negroes a slaveholder must take with him from a slave State, in order to place him on equality with a Northern man ? Does your equality consist in having negroes about you ? Why, there is no Southern gentleman within the sound of my voice, or anywhere, who would not scout the idea that he was not, in every respect, equal if not superior to any Northern man. And yet gentlemen rise on this floor and gravely argue that they cannot go into that Territory on equal terms, and with equal rights, with Northern men, unless

they can be protected there in that "property" which is so necessary to their social enjoyment. I do not intend to carry out this inquiry to any greater extent. I rose merely to state some of my own views, and the views which, as I believe, the people of my State almost unanimously entertain upon this question. They consider it a mere matter — I will not say of robbery, for that would not be parliamentary — but a matter of gross injustice. They make no appeals to the magnanimity of Southern senators or representatives. They know that they gain nothing by such an appeal from those who come forward, under such a state of things, to repeal this compromise line, after availing themselves of all the advantages which have resulted from it. They would gain no more by appealing to their magnanimity than they would by appealing to their love of peace. But we may appeal, with some hope, to their justice; for I agree with my honorable friend from Ohio (Mr. Wade), that, in the matter of justice, as administered in their courts, they have been all ready to render just judgments.

But, sir, if this is designed as a measure of peace, let me tell you — not by way of prophecy, but as my own opinion — that anything but peace you will have. If gentlemen expect to quiet all these controversies by adopting what my constituents now consider, and very well consider, an act of gross wrong, under whatever pretense it may be, whether on the ground of the unconstitutionality of the former act, or any other, after having rested so long satisfied with it, let me tell them that this, in my judgment, is the beginning of their troubles. I can answer for one individual. I have avowed my own opposition to slavery, and I am as strong in it as my friend from Ohio (Mr. Wade). And I wish to say, with all seriousness, that if this matter is to be pushed so far beyond what the

Constitution originally contemplated ; if for political purposes, and with political design and effect — because it is a political design and effect — we are to be driven to the wall by legislation here, let me tell gentlemen that this is not the last they will hear of the question. Territories are not States, and if this restriction is repealed with regard to that Territory, it is not yet in the Union, and you may be prepared to understand that, with the assent of the free States, in my judgment, it never will come into the Union, except with the exclusion of slavery. It may be that we shall be overborne as we have been before. I know not how many people of the North will yield to the cry of fraternity and concord, and all that sweet lullaby which has been sung in their ears so long. I only know that if their rights are outraged in one particular, they must look to the next point. I speak to gentlemen as they have chosen to Northern men on this floor. If the compromise of 1820 is to be annulled, if the Texas compromise is to be considered unconstitutional and go for nothing, the time will come ere long when we shall be called upon to act upon another question than this of the mere organization of Territories. I speak for myself with all frankness. Gentlemen have talked here of a dissolution of the Union. We have heard that threat until we are fatigued with the sound. We consider it now, let me say, as mere *brutum fulmen*, noise, and nothing else. It produces not the slightest impression upon the thinking portion of the public. You laugh at it yourselves.

Mr. Butler : Who laugh ? (Laughter.)

Mr. Fessenden : You at the South. You do not carry it seriously into private conversation.

Mr. Butler : No, sir ; if your doctrine is carried out, if such sentiments as yours prevail, I want a dissolution right away.

Mr. Fessenden: As has been said before, do not delay it on my account.

Mr. Butler: We do not on your account.

Mr. Fessenden: Do not delay it on account of anybody at the North. I want the gentleman to understand that we do not believe in it. We love the Union as well as you do, and you love it as much as we do; I am willing to allow that. But, sir, if it has come to this, that whenever a question comes up between the free States and the slave States of this Union, we are to be threatened with disunion unless we yield, if that is the only alternative to be considered, it ceases to be a very grave question for honorable men and freemen to decide. I do not wish to say anything offensive to gentlemen, but I desire them to understand what I mean. It is that we are ready to meet every question on this floor fairly and honestly; we are willing to be bound by the decision of the majority, as law. If it operates hardly upon us, we will bear it. If it is unconstitutional, we must go to the proper tribunal for a decision, and not threaten each other with what no one of us desires to execute.

Such, sir, are my views in reference to this matter. I have not spoken them so much for the Senate as for the purpose of giving expression to what I believe to be the sentiment of those I have the honor to represent on this floor. Whether right or not, time only can decide, and I am willing to abide that decision.

CONDENSATION OF THE SPEECH ON OUR RELATIONS WITH ENGLAND.

In opening, Mr. Fessenden said he differed somewhat from the views of senators as to the proper construction of the Clayton-Bulwer treaty.

The President had informed the Senate that although

the two governments were at variance upon the subject, it was still open for discussion, and he still hoped for an amicable solution of the controversy. Though no action of Congress or the Senate was required, yet senators representing the three great parties had expressed their concurrence with the government in its construction of the treaty. He thought the discussion should have stopped here. The matter was still a subject of negotiation between the two governments, and should have been left to the proper departments. He had hoped the discussion would have been avoided until action was necessary. Warm speeches here were responded to with warm speeches in England, and the event of war had been discussed.

The difficulty had become complicated with the question of foreign enlistment carried on by British officials in this country. If high foreign functionaries violated our neutrality under the law of nations, it must be ascertained whether their governments avowed or disavowed their acts. If they made no answer, then the United States must ask to have those personages who had violated our rights of neutrality recalled. If their governments did not do this the United States should dismiss them. The dismissal of a minister was not a cause of hostilities. In the present case Mr. Crampton should be recalled.

He did not regard the British title of any consequence if the American construction of the treaty was correct, for if Great Britain had agreed not to exercise dominion over Central America, then her title was abandoned. If the British construction was correct, then it became important to show she had no title.

If the United States stood on the Monroe Doctrine, which she did to some extent, the British title might then become important; but otherwise it was of no importance because it was nothing to the United States if Great Brit-

ain chose to exercise dominion over part of a foreign territory, provided our commerce was not interfered with nor our people molested. It was no infringement of our rights if Great Britain founded a colony on the Bay Islands, unless we had some other right than simply being near neighbors.

It was said Great Britain's assumed protectorate over the Mosquito Indians was a mere pretense. No protectorate Great Britain ever assumed was anything else. Her policy was acquisition of territory. Her purpose was to control the commerce of the world. She had seized the salient points of the world everywhere. She had attempted the same thing in Mexico and Central America. She went for the purpose of trade with the Mosquito Indians. Our Revolution was caused by this same insatiate desire. But Great Britain was banished from portions of this continent by the treaties of 1783 and 1786. By the 14th article of the treaty of 1786 she abandoned the Mosquito protectorate. This treaty enlarged the boundaries of the Belize, where she had the right of cutting wood. This treaty also gave Great Britain the right to occupy certain islands at the Belize, called a settlement.

Thus Great Britain withdrew from the continent. But as Spain grew unable to preserve her colonies, Great Britain began to again protect the Mosquito Indians. She obtruded herself upon their land, and was again in the position she occupied before 1783. So matters stood until the United States acquired a large extent of country on the Pacific. Great Britain saw that the United States would require the best communications between its two shores. Foreseeing that the isthmus must become a great highway of commerce, Great Britain took possession of the port and river of San Juan six days after our treaty with Mexico.

Nicaragua called the attention of the United States to the importance of preventing a foreign power from obtaining possession of this route. General Taylor's administration became interested in the question, not alone with reference to a canal, but against Great Britain obtaining any control of that isthmus. This government assured Great Britain that it would not look with composure upon any steps taken by her to control that river, but the remonstrance was based on the principle that the United States had so vital an interest in the question as to entitle it to inquire what was the intention of Great Britain, not only in that river, but in all parts of Central America. It appears that the United States wished to exclude Great Britain from permanent possession in that country. Under these circumstances the treaty of 1850 was made.

It was singular that when the great object of the treaty was to exclude Great Britain from permanent position, it was not distinctly expressed. The preamble spoke only of a canal. That the great object was omitted could be explained only on the supposition that the withdrawal of Great Britain from Central America was perfectly understood by both parties. This was expressed in the first article, which declared that neither party would ever maintain exclusive control over the canal, or erect fortifications to command it, and then said that neither would occupy, colonize, or exercise dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America. It may be that this form of exclusion was thought less offensive to British pride, but it was trusting too much to British diplomacy to leave so important a matter to an inference.

Nevertheless, the treaty was definite. Neither party was to occupy, colonize, or exercise dominion, and there

was no evading this. But the protectorate of the Mosquito Indians was by necessary implication reserved to Great Britain, only it was not to be used for the purpose of occupying, colonizing, or exercising dominion in any part of Central America. But the Bay Islands colony was part of Central America, and came within the treaty. As to this colony, Great Britain must show that it was excepted.

He therefore held that Great Britain had a right under the Clayton-Bulwer treaty to exercise her protectorate in good faith for the benefit of the Mosquito Indians, but in regard to the Bay Island colony, which she had established since the treaty, she had been guilty of bad faith. She assumed to take possession of that from which she was excluded by express stipulation, and which she had agreed not to occupy, colonize, or exercise dominion over.

It did not follow that if Great Britain persisted in holding on to her Bay Island colony hostilities must be commenced. The United States could declare war, or abrogate the treaty ; but their national honor did not require them to do so. It was a question of expediency. The United States would gain no rights in Central America by expelling Great Britain from it. He did not deem it advisable to give Great Britain notice to withdraw or to prepare for war. No republic should ever be prepared for a war until it actually existed. The only preparation the United States could make was to keep its coast defenses in good order.

It was thought that one result of a war with Great Britain would be the conquest of Canada. He did not desire to have those colonies come to the United States by conquest, but he wished them to come peacefully of their own accord. He had favored the reciprocity treaty as a measure that would make that event more certain.

He was willing to declare that the United States was right in their construction of the treaty. That could do no harm. It was said Great Britain was growing weaker, while the United States was growing stronger. She was still a great nation, and he hoped she would remain so. He believed that in a protracted warfare the United States would conquer; but the cost would be enormous. Nothing but stern necessity would justify a war.

He would say, then, that the government should do nothing but protest. In that way nothing was lost. The treaty would not lose its vitality by lapse of time.

It was true that the United States must have a right of transit across Central America if that was the best route to the Pacific States. He would regard it as an unfriendly act for any government to deprive this nation of such a route. If any foreign government made a treaty with a Central American power to exclude the United States from a route necessary for them, he would consider it a cause of war. To that extent he held the Monroe Doctrine, that, whenever in process of time the interests of the country required it, the law of nations would justify saying to any nation that threw itself across our path, that cost what it might she must stand aside. In thirty years no other nation would be able to deny the United States a right of way across Central America.

He thought the United States should rest quietly on their rights, and assert them when time should make it necessary to do so. The treaty should not be abrogated, but enforced at the proper time.

He was in favor of acquiring new territory only as a matter of necessity from the country's growth and strength by the natural accretion of civilization. To acquire it by conquest, or by hasty or fraudulent nego-

tiation, would be to weaken the nation by bringing together a mass of inharmonious material.

Subsequent to this debate the United States requested Great Britain to recall Mr. Crampton and several of her leading consuls who had violated the neutrality laws by enlisting men for the English army. Great Britain declined to do this, and the United States, towards the last of May, dismissed them. It was expected that England would dismiss our minister, but it was found that opinion in that country was greatly opposed to war, and it was announced in Parliament that Minister Dallas would remain. Great Britain withdrew from the port and river of San Juan, but retained possession of the Bay Islands.

CONDENSATION OF THE DEBATE UPON PRESIDENT BUCHANAN'S KANSAS MESSAGE.

In his message the President took the extreme Southern ground. He maintained that the Lecompton convention was legal; that in submitting to the people only the question of slavery or no slavery, it had submitted "the all-important question;" that it had been solemnly adjudged by the Supreme Court that slavery existed in Kansas by virtue of the Constitution of the United States; that Kansas was now as much a slave State as Georgia; and if Southerners could not have an equal right to take their slave property into the Territories, the equality of the States composing the Union would be violated. The President treated the free state people of Kansas as rebels.

The message was received on February 2, 1858. Mr. Fessenden answered it on the 8th in one of the longest speeches he ever delivered in the Senate. The greater part of it was an answer to the President's arguments,

and criticism of the Dred Scott opinion of the Supreme Court.

He said the message had been drawn with care to influence the people with reference to the great questions which Congress was to decide. It was important that those who held contrary opinions should state the case as they understood it.

The President intimated that he would keep troops in Kansas unless the Lecompton Constitution was accepted. As a free state majority controlled Kansas, his declaration would seem to mean that unless Kansas was admitted with the Lecompton Constitution, he would keep troops there to control the free state majority.

The message should be impartial. But the President states things he must have known were not true. He denounces the majority of the people of Kansas, but has nothing but excuses for the minority which wants slavery. He treats the question of free institutions as of no importance to the people of the free States, but of consequence to the slave States. He warns the people of the North that agitation would arise in the slave States if Kansas was not admitted under the Lecompton Constitution. He should warn the people of the South to submit to the law as settled by Congress. Why does he warn the North to pay regard to the threats of dissolving the Union? He ought to tell the South that the Union should be preserved and the powers of the government would be used to defend it.

The President charged that the majority of the people of Kansas would have overturned its government and established the Topeka Constitution by force if he had not prevented it by the use of the military. There was nothing to show such a design. They disavowed it, and their sending the Topeka Constitution to Congress was no more

rebellion than a town meeting which passed resolutions upon the subject. There were no forcible acts. The President forgot to state that the government of Kansas was a usurping government. The proof was in the record of the House of Representatives. The President was bound to know the fact.

The President held the people of Kansas accountable for not voting upon the question of having a convention. It was a matter of record that no one could vote without taking a test oath — a thing unheard of as a prerequisite of a right to vote. Before they could vote they were obliged to violate their conscience. The President had forgotten facts which were notorious and stated things that were notoriously untrue. He asserted that the people of Kansas had a fair opportunity to settle the question of slavery. The assertion was without foundation. They could only vote between two slave constitutions provided they would previously take the test oath. They had seen the votes of 2500 people override the votes of 12,000. How easy it would be for those who had fastened slavery upon Kansas to retain control of it when once possessed of its government.

It was argued by the President that the organic law establishing the Territory was of itself an enabling act which gave the people of Kansas authority to form a constitution. To maintain this idea it was necessary for the President to interpolate into the act, the words "in framing their constitution." There were no such words there. No authority was given in the Organic Act to call a convention. Neither had Congress conferred upon the territorial legislature any authority to call a convention? There was no more legality in the action of the legislature in calling a convention than there was in the action of the people in calling the Topeka convention.

The Topeka convention was as legal as the convention at Lecompton. They could do it in either form so long as they acted peaceably.

The question was, Had the people of Kansas manifested clearly to Congress their desire that the Lecompton Constitution should be accepted and they should be admitted under it as a State? Against it was the admitted dishonesty of the whole proceeding. Why was the only question submitted to them the choice between two slave constitutions accompanied by a test oath that was abhorrent to them? They had thrown a majority of 10,000 against a constitution with slavery. The question was to be settled by the people voting under due form of law. The President assumed this was done because the forms of law had been followed. This was no answer. There was no more dangerous mode of attacking the liberties of a people than under the forms of law. These forms of law were a legislature forced upon the people of Kansas by a Missouri invasion. This legislature had acted without legal right in appointing a convention. This legislature established a test oath. A census was taken that did not include one half of the people. The members of the convention pledged themselves to submit the whole constitution to the people, and did not do so. They submitted a choice between two slave constitutions accompanied by a test oath to support the one adopted, and returned under the forms of law six thousand votes when less than two thousand were thrown.

If he was told that Congress could not go behind the returns, he would reply that fraud vitiated everything. It vitiated the record of a court of law. It set aside a judgment, and it vitiated an election. It was said that in consequence of the success of these fraudulent practices the people of Kansas could not inquire into the matter.

Such a principle had no existence where truth and right prevailed.

He had considered the question on the ground of popular sovereignty in the Territories. The Republican party repudiated that doctrine. He held the repeal of the Missouri restriction was an outrage and a breach of compact, and he would always agitate against the establishment of slavery in a free Territory. The doctrine of popular sovereignty that the people of a Territory had the power to decide upon their institutions was repudiated in the Cincinnati platform of 1856.

The people of the North were first deluded into the idea that the people of a Territory were to have the power to exclude or establish slavery as they pleased, and then were told by the Democratic party that they had no such power until they formed a state constitution, when slavery had already overrun them. It was now asserted that the question had been settled by the Supreme Court. The question was not before the court, a decision was binding only so far as the court could issue its mandate. The decision was extra-judicial and at variance with the history of the government.

When he read the dogma of the Cincinnati platform, that the people of a Territory had no power to exclude slavery until they formed a state convention, and when he saw this question had been brought before the Supreme Court, and the court after hearing the final argument had adjourned over till after the presidential election, he knew what the decision would be, and he did not hesitate to say that had the election resulted otherwise, this doctrine, so repugnant to truth, so destitute of all legal logic, and so founded in error, would never have been heard of. That opinion was founded on the false reasoning that because the Constitution recognized the slave trade for twenty years

it recognized property in man. But on every principle of logic it ceased to recognize it afterwards. The recognition fell at the end of that period. Equally false was the assumption that a provision which declared persons escaping from labor should be delivered up was also a recognition of property in man. That clause applied to white persons as well as blacks.

He considered that the scheme was to have the assertion of popular sovereignty in the first place with a view to render the repeal of the Missouri Compromise palatable ; then to repudiate it and avow the establishment of slavery ; then to legalize it by a decision of the Supreme Court and claim it was established, and all its political power be extended over the free Territories of the Union. Not with his consent. Never would he compromise upon one single point of the question of excluding slavery from every foot of free territory beneath the circuit of the sun.

Mr. Benjamin said, and Mr. Clay gave notice, that they would reply to Mr. Fessenden. Mr. Benjamin said his arguments were put forth with great ingenuity and power, but would not stand examination. Jefferson Davis followed with a severe arraignment of Mr. Fessenden's speech. He asserted the President's message was the message of a patriot ; that the President and the Supreme Court had been vilified and impeached ; that the senator from Maine had perverted everything to his own malignant purposes. He argued that slaves were the only property expressly protected by the Constitution. He charged that it was an evasion to make war upon the rights of one section and then assert devotion to the Union. The Missouri Compromise was unconstitutional. The South only claimed equal rights in the common Ter-

ritories. It had never attacked Northern institutions. He would not stoop to compare his services to the Union with the fair phrases of gentlemen whose course was undermining the foundations of the Union. Upon another occasion he would meet the accusations which had been heaped upon his section.

When Mr. Davis had finished, Mr. Fessenden immediately rose to reply. He said his physical ability was well-nigh exhausted by the length of time he had been speaking, and he must be brief. He might reply more at length at some future time, and he was therefore not particularly alarmed by the threat of the senator from Mississippi that he would treat on some future occasion of what had been said that day.

He preached no crusade against slavery where it existed, and had expressly disavowed any intention to interfere with it, though he would have no fear of avowing such sentiments if he entertained them, even in the presence of the senator from Mississippi. When the day came that he would shrink from expressing every feeling of his heart on these matters which so agitated the country, under any fear of what man could say or do, he would not stay in the Senate a single hour.

The senator charged him with advocating disunion sentiments. He had not sung pæans to the Union and the Constitution. He did not pretend his life was so illustrated by distinguished services to the country as the senator from Mississippi seemed to suppose his had been. But in the Senate he was the equal of any man in his rights on the floor, and he would exert those rights whenever he chose, within the rules of order, whatever the consequences might be. He had avowed no disunion sentiments anywhere. Could the senator from Mississippi say as much? Mr. Davis said "Yes."

Mr. Fessenden said he denied it himself with all the energy of the senator from Mississippi. The senator had put the charge against him on the ground that he was opposed to the extension of slavery over free territory, and had asserted that the repeal of the Missouri Compromise had been an outrage on the free States. That subject he would continue to agitate. Was that disunion?

Mr. Davis said the senator's position was fruitful of such a result and his sentiments had the effect of undermining the Constitution.

Mr. Fessenden replied that was a matter of opinion. He was not undermining the Union when he attacked the opinion of the Supreme Court. The institutions of the country stood firm upon the doctrines of freedom, and the opinion of the Supreme Court undermined them. He admitted that the Constitution recognized slavery, but he denied that it either recognized or protected slaves as property outside of the limits of the slave States. The States as States had no rights in the Territories. Individuals from the different States had the right to go into the Territories. But the Constitution did not authorize an individual to take slaves there. That doctrine when first broached by Calhoun was received with derision, and it died. And when Mr. Calhoun said at a later day, as he did say, that if the Supreme Court should decide that the doctrine was not a true one, the decision would be entitled to no respect, pray was not he uttering sentiments undermining the Constitution?

The senator declared that the North was the aggressor. Who began the aggression? Who reopened the agitation? It was those who advocated the repeal of the Missouri Compromise. The South did it in a time of profound peace. That aggression had been followed by outrage upon outrage, until the senator from Illinois, out

of regard for his own honor, had to oppose their further perpetration.

He would remind the senator that the South had made other aggressions upon Northern interests. It had attacked the fishing bounties, it had proposed to repeal the navigation laws, and it had constantly attempted to break down the manufactures of the North.

Mr. Davis replied that he threatened nobody, and did not suppose any one was afraid of him. Mr. Fessenden said he was, which Mr. Davis took seriously, but Mr. Fessenden explained that he spoke only from an intellectual point of view. This occasioned some laughter in the Senate. Mr. Davis then said that the South was willing New England should fish or manufacture, but was not willing to be taxed for them.

CHAPTER IV

CHAIRMAN OF FINANCE COMMITTEE

1861-1864

THE peril of the country in January, 1861, is indicated by the depressed condition of public credit at that time. Seven States were in revolt; the revenues were far below the expenditures, and during December the Treasury had borrowed ten millions of dollars, the last five at a discount of twelve per cent. The House passed a bill authorizing a loan of ten millions, which came to the Senate on December 12, authorizing the Secretary of the Treasury to sell the proposed issue for anything he could get. Senator Fessenden favored an amendment limiting the power to sell for any price to three millions, stating that he was unwilling to see the government paper shaved to such an extent that the public credit would be injured at such a time. The following February, 1861, a loan of twenty-five millions was required, and the Morrill Tariff Bill gave a borrowing authority of ten millions more. When Secretary Chase took charge of the Treasury, on March 7, he had authority to borrow forty-one millions, but he did not feel willing to sell the public securities at a sacrifice, and through March and April accepted no offer under ninety-four; but in the following May, after the beginning of hostilities, he sold ten millions at an average of ninety. The financial measures of this session provided only for the ordinary expenses of the government in time of peace. The session closed on March 29 and

two weeks afterwards Sumter was fired on. Mr. Fessenden wrote: "My heart aches when I think of the horrors that are coming; but I am consoled with the belief that much good will come out of it all. With my consent, there shall be no peace until all these disturbing questions are definitely and properly settled. This contest finds me prepared — I know it must terminate in good for the country — republicanism can stand only when based on honest principles, and should fall when perverted from its true purpose, as ours has long been."

Mr. Fessenden was now fifty-five years old. Though of slender frame, his constitution was sound. His professional life had been laborious, and he had hoped for easy work in the Senate; but he was now, as chairman of and spokesman for the committee on finance, entering upon the severest and most responsible duties of his life. His colleague, Lot M. Morrill, visited Washington in May, and wrote that the government was proceeding cautiously, and added: "Secretary Chase thinks you ought to be here to prepare business for them. Wade and Chandler are here, hot for war."

On May 29 he received a note from Secretary Chase, saying that the President and himself thought it advisable to have the leading members of the financial committee come to Washington, and his presence was especially desired. Accordingly, he went to Washington, and spent some weeks before the meeting of Congress, in consultation and in preparation of financial measures. The government, in May, took energetic steps against the Rebellion, suspending the writ of habeas corpus, proclaiming the blockade of Southern ports, and proceeding to organize a vast army. The call for seventy-five thousand men to serve three months ensued, followed by a call for six hundred and fifty thousand men to serve three

years. Expenditures were to be made on an enormous scale, and great questions of finance and taxation were now to be met by the House and Senate, unprepared by previous experience for such responsibilities. Congress assembled July 4, 1861. The committee on finance of the Senate consisted of Senator Fessenden, as chairman, and six others. Senator Fessenden had been on the committee since 1858. The labors of this committee soon became overwhelming, Mr. Sherman in his Memoirs saying that they were herculean, "for to this committee were referred all measures relating to public finances and the Treasury, all the appropriations for the great army and navy and other departments of the government, all tax and revenue bills, all loan and coinage bills."

The work of organizing and equipping the army and navy was well advanced when Congress assembled. The session lasted one month and the immense appropriations were subjects for the committee on finance. Senator Fessenden reported the first bill on July 9, a bill to remit the duties on arms imported by the States. Another bill to pay the volunteers called out by the President, the Loan Bill, providing for a loan of \$250,000,000, was reported on the 13th and passed on the 15th. No bills making large appropriations came from the House until July 11. Such bills then came up from the House and were immediately reported to the Senate and passed. Considerable debate was had and Senator Fessenden participated largely in the debate, resisting many amendments, striving to expedite action and prevent delay and change. Senator Grimes, during these debates, after being opposed as to one of his amendments by Senator Fessenden, said on the floor, "My experience has taught me that it is utterly futile to war against the chairman of the committee on finance. His eloquence, will, and persistency are such

that it is useless for me to press an amendment against his wishes. I therefore withdraw the proposed amendment, hoping to receive his support some other time."

Senator Fessenden called up, explained, and supported the Tariff Bill reported July 25, on the ground that it was necessary for revenue, and said: "I think more yet will have to be done to place the credit of the country where it ought to be." He favored an income tax. He said also, "We must stay here as long as our services can be useful to the government." This remark was called forth by an impatience manifested by many for an immediate adjournment. Many differences of opinion arose among the senators. The excitement was great, the pressure was strong, and some heat was engendered in the debates. Senator Fessenden observed that he was not disposed to find fault with anybody who was acting with him in this crisis. "We are made up differently and we must make allowances for everybody. All are disposed to do their duty, and if we keep on in that line, although we may make mistakes, yet bearing with each other, we shall come to a fortunate issue."

In the debate on July 29, on the Senate substitute for the Tariff Bill, Senator Sumner opposed the Senate bill on the ground that it did not raise the desired revenue and would offend foreign nations. Senator Fessenden answered this by saying that "there was something else to be considered beside the good or bad opinion of foreign nations. The country was in a state of war, incurring enormous expenses, and the question was how to raise the money. No foreign nation had a right to tell us to be careful how far we imposed duties on articles made by them to sell to us, so long as we treated all alike. Nobody has a right to feel offended because we act according to our own views of our own interests. Under the

proposed bill there would be a large increase of revenue, and money to carry on the war must be obtained largely from this source." "I am willing to risk the righteous indignation of those people abroad who think they will not make as much money out of us as they ought to."

It was supposed that the taxes from this measure, with the loan act of \$250,000,000, would furnish the government with the \$320,000,000 asked for by the Secretary of the Treasury for the fiscal year. Congress adjourned August 4 until December. It was a dark time for the country, and Mr. Fessenden was under its shadow in his private as well as in his public relations. Three of his sons were in the army. Writing to one of them, he said:

"I do not feel very comfortable about the future, but must be content to make all the sacrifices necessary. I cannot feel at all reconciled to James leaving his business and family. Sam, too, has persuaded me into consenting that he should take a lieutenancy in the Light Artillery Corps to be attached to Dow's regiment. The house must, of course, be shut up, and I do not feel as if it would be opened again, nor, as far as I am concerned, does it much matter. I will hope, however, to meet you all again before I die, and in better times for the country. What remains for us all is that each should do his duty in the sphere of action assigned to him, and wait patiently for the developments of time. I am not, however, very well content with the course of things at headquarters, and fear that there is great want of wisdom among our rulers and leaders, but will grumble as little as possible."

The inaction of the armies throughout the autumn, the removal of Frémont, the report of wasteful contracts for the War Department, and some arbitrary arrests by the Secretary of State caused much dissatisfaction in the North and among leading Republicans.

By the end of November the Secretary of the Treasury had obtained from the above named sources \$197,000,000. When Congress assembled in December, 1861, it was apparent that the public revenues were much less than the estimates, the revenues amounting to some \$25,000,000, while the war expenditures would be some \$214,000,000 more than the secretary had reckoned. It appeared that for the following year, 1863, there would be required \$475,000,000. Hope of a speedy ending of the war had disappeared; but with a war of indefinite length before them and enormous expenditures required, the people, through Congress, resolved to carry on the contest, and the problem before Congress was to provide \$655,000,000 to sustain the government until July, 1863; so that now the finance committee of both branches set to work upon elaborate schemes of taxation by methods hitherto unknown to the country, which were necessary to sustain the public credit, and lay a foundation for the enormous loans to enable the nation to carry on the war.

He writes home that he is anxious about the tax bill and its difficulties:—

WASHINGTON, April 25, 1862.

It will be another week, at least, before I can report this infernal tax bill, and it will be a doubtful concern at best. There is no time to make a new one, and all we can do is to patch this. It will be odious, of course, and overwhelmed by all with curses, both loud and deep. I have made up my mind, however, to put it through in the best shape I can.

Later: "The 17th of May, and everything to do. The prospect of being at home by the 20th of June is not very bright, is it? I will not despair, however. As it

grows hotter, our fellows will, I trust, be content with shorter speeches, and quarrels will be more readily postponed to a future time."

June 8, 1862.

Congratulate me on having at last got rid of the terrible incubus which has oppressed me for six weeks. Nothing remains but some light work upon a committee of conference, and it is done. I was so sick and exhausted Friday night that I went to bed at nine. Fortunately I slept soundly, and waked at five, my mind much refreshed. An hour's walk in the garden gave me fresh delight, which was increased by a heap of splendid roses which I sent to some of our poor wounded boys at the hospital. This morning I am almost as good as new, and after waking enjoyed myself in thinking of home and friends, and found it so agreeable and efficacious that notwithstanding all my recent labor I shall not despair of being able to do a little talking in the domestic way, if I could find a fair opportunity, of which I will not despair. My work is not yet ended, but the rest will be comparatively light. So far as the essential legislation of Congress is concerned, there is nothing to prevent our finishing up in two weeks; but I am afraid we shall hardly be able to accomplish it, though. I almost grudge my country every day I give her this month.

WASHINGTON, June 15, 1862.

I did hope that we might adjourn in about one week from to-day; but I am very much afraid that three weeks will be nearer the mark. It depends upon me, as a majority of the Senate is willing that I should decide the matter, and the House will agree to any day we fix. I am not yet in a condition to decide; the tax bill is in the hands of a committee of conference, and will be wound

up in a day or two. All my other bills will be wound up, or might be, in two weeks, but there are two or three important measures to be finished, and I must keep one of my bills behind them in order to secure sufficient time for their passage. The weather is now so intolerably hot that I am inclined to believe that senators will not be so pugnacious and long-winded as they have been, and three weeks will give ample time, if improved.

Secretary Chase had recommended heavy taxation ; and as a general increase of duties on imports and an internal revenue scheme would require much time, in January Congress passed a resolution declaratory of its intention of raising by taxation and duties at least \$150,000,000. In reporting this resolution to the Senate, Senator Fessenden states its purpose to be to convince the public mind that sufficient taxes were to be imposed to secure the public credit ; and as the preparation of the tax bills would take much time, this assurance of the purpose of Congress would arrest the downward tendency of the government securities.

Meanwhile, immense sums were needed immediately. The suspension of specie payments had rendered bank currency unreliable, and the exchanges of the country were in confusion. To meet the exigencies of the situation, the committee of ways and means in the House reported a plan to issue one hundred and fifty millions of non-interest bearing Treasury notes (afterwards popularly known as "greenbacks"), making them a legal tender in payment of all debts, public and private. Fifty millions were to be devoted to retire an equal amount of demand notes, authorized the August before. There was a great difference of opinion as to the wisdom of this legal tender measure. It passed the House and came to the Senate on the 7th of

February ; was referred, on Mr. Fessenden's motion, to the finance committee and reported by him to the Senate on the 10th. At this time the government expenses were about \$2,000,000 a day, and the Treasury resources were exhausted. Writing of the financial situation at this time, Senator Fessenden said to a friend : " My great anxiety now is about money. . . . A few months will, I fear, see the country bankrupt, specie payments suspended, and the government living on its own discredited notes as the South is. . . . I am to meet the secretary pretty soon and see what we can contrive, but it is one thing to contrive and another to execute. We can but try." A later letter says : " Now I will give you a history of the day. Just as I began this letter, a servant announced that Mr. Chase wished to see me. He came to tell me that the New York banks would suspend specie payments to-morrow. He desired to consult with me upon what the government should do, and we consulted for two hours. We then went out to see two other gentlemen, and I returned just in season for dinner. Before I was fairly in my room, two members of Congress called to read me some bills and reports upon which they desired my advice, and remained until after dark. I spent a half hour until tea-time in thinking over our difficulties. Coming out of the tea-room, I met —. He stayed until another gentleman called to give me his views of public affairs. I listened to him until I could stand it no longer ; I seized my hat, pleading an engagement, and rushed out. Went to see Mr. Trumbull, spending an hour in abusing —, and here I am. Have n't I spent Sunday profitably and pleasantly ?"

Upon the much-questioned legal tender clause, bankers and others were divided in opinion ; and the difference of opinion created doubt in the minds of the members of

Congress, and Senator Fessenden writes: "I have been engaged all day in consulting with the secretary and others, and no two men can be found to agree in opinion. Yesterday I was at work all day and had the committee on finance in my room until eleven. This morning, Secretary Chase called and kept me till too late to attend a meeting, but I met my committee at twelve o'clock until four, and then went to the President's. Between this and Monday morning I must arrange two reports for my committee, put in shape all the amendments to the Treasury Note Bill for discussion and settlement which have been proposed in the committee. This legal tender clause is opposed to all my views of right and expediency. It shocks all my notions of political, moral, and national honor. I am beset with letters and telegrams, and told on every hand that not to yield is death to credit; that without it we shall be utterly bankrupt and cannot carry on the war. I do not believe it, and yet ought I to set up my own judgment as a standard of action? This thing has tormented me day and night for weeks; the thing is wrong in itself, but to leave the government without resources at such a crisis is not to be thought of. Would that some kind spirit would only lift the curtain and tell me what I ought to do."

This measure, which authorized one hundred and fifty millions of paper money and an issue of five hundred millions of bonds, having been considered by the committee, which was divided in opinion, and having been radically amended from the form in which it came from the House, was reported to the Senate by Senator Fessenden on February 10, 1862, with request for immediate action. The ensuing debate was opened by Senator Fessenden on February 13, who explained the bill and its amendments. He stated that after all his

study of the subject, he had concluded that, owing to the peculiar condition of affairs, nobody knew much about the question of public finance; he had not found any two learned financial men in agreement; he had left the constitutional question untouched. The crisis was a great one; he had no doubt that the country would be able to meet its wants financially, and he thought it could meet them better without the legal tender clause than with it. Mr. Collamer moved to strike out the legal tender clause. Senator Fessenden voted for the motion. It was lost. Senator Fessenden then submitted an amendment, making the proposed bonds redeemable at the pleasure of the government after five years and payable after twenty. This amendment was adopted. The bill became a law, and its effect was a relief to the Treasury, the notes being quickly absorbed in the business of the country. Secretary Chase requested authority to issue sixty millions held in reserve for retiring previous notes and one hundred and fifty millions additional if he found it necessary. Senator Fessenden was averse to the issue of any further notes, though reluctant to oppose Secretary Chase, and from that time on he opposed as much as he could further issues of the paper money.

An important financial measure of the session was the act to provide internal revenues to support the government and to pay the interest on the public debt. The House committee on ways and means, after four months of consideration and debate, presented a bill to the House which was passed and referred to the Senate committee on finance. The committee considered the act for a month, and decided that the wisest course was to perfect the House measure rather than to frame one of their own. An exhaustive investigation of its provisions was made and many amendments were added to the bill. To this

work Senator Fessenden gave all his time out of the senate chamber, and after weeks of constant labor and great perplexity he reported the bill to the Senate, and on May 20 gave notice that on the following day he should move to take it up. The next day it was taken up. There were one hundred and nineteen sections and more than twenty thousand words. Senator Blaine in his "Twenty Years of Congress" describes it as "one of the most searching, thorough, and comprehensive systems of taxation ever devised by any government." Fifteen days of hard work were consumed in passing the bill through the Senate, Senator Fessenden being obliged to defend the amendments of the committee first, and then to maintain the bill against the amendments of senators against particular features. In this he encountered the whole Senate. There was much hostility to it, as it struck at diverse interests and affected a great territory. In the Senate the ablest men asserted themselves for changes, and the contest required all of Senator Fessenden's firmness and persistency to prevent the measure from being so amended as to prevent an agreement with the House. The bill then went to a conference committee, of which Senator Fessenden was chairman, and was accepted by both House and Senate upon the recommendation of the conference. The bill was a great success, and the country did not suffer from the heavy taxes; but the war seemed more obstinate than ever, and the expenses of the government increased.

April 21, 1863, to his son about to go to the front he writes: —

"If you need money for any purpose, your draft on me will be paid at sight. My purse is long enough to furnish you all needful aid, and my affection for you has no limit. And you may take this knowledge with you, my

dear boy,—that your father feels that you deserve his love, and that if you fall in the discharge of your duty, if he shall be able to bear your loss it will be *because* you have been to him a comfort and a pleasure from the hour of your birth. I trust, however, that God will preserve you to cheer my remaining years, and to close my eyes. I have only to repeat—take all the care of yourself, for my sake, that you can take consistently with your duty and your honor.”

When Congress assembled in December, 1863, the House committee began to prepare a new tax bill with greatly increased taxes, but as its preparation would require much time, it was resolved to lay immediately a heavy tax on spirits. The resolution having passed the House, it was called up in the Senate by Senator Fessenden on February 3, 1864. A strenuous debate followed, led by Senator Fessenden for the tax and by Senator Hendricks against it. Meanwhile, the new Tariff Bill came from the House and was referred to the finance committee of the Senate. It had one hundred and eighty-two sections and was almost twice as long as the preceding Tariff Bill. The same labor was gone through with by the Senate committee in preparing it for submission to the Senate. It was reported to the Senate on May 19, and called up by Senator Fessenden on May 24. A debate of eleven days followed over the new Tariff Bill, Senator Fessenden playing the same part of championing the measure against the whole Senate as he had played with reference to the preceding Tariff Bill. The taxes were heavily increased by it, but it passed. Senator Fessenden took an active part in the debate concerning the national bank system and through the session was active in the debates upon tax bills and other measures from the finance committee, for which committee he was the spokesman in the Senate.

The act taxing the circulation of the state banks came up for debate in this session.

He was not too busy to keep an eye on his sons, for he writes to one of them :—

April 17, 1864.

You speak of taking whiskey occasionally, and perhaps it may be beneficial, provided it is good and you take it in small quantities, taking care not to increase the frequency or the strength, which is too apt to be the case, especially with soldiers. I hope you will be very careful in this particular, for to say nothing of the ultimate danger to your habits, it is apt to confuse the intellect. Only take just so much as is necessary to your health, under the advice of your physician. A little overdose at a moment requiring all your coolness and presence of mind might do you a great injury. I am more than doubtful whether scolding and swearing do any good under any circumstances. Sternness and severity are doubtless sometimes necessary; but a cool, steady demeanor is absolutely essential to the control of others. An excited manner and rough language inevitably lose the confidence and regard of men. It is much easier, however, to preach than to practice, and I should probably fall far short of my own lesson. One rule applicable to both points is, never take whiskey enough to excite your nerves under any circumstances.

June 25, 1864, Senator Fessenden reported the Loan Act providing ways and means for the coming fiscal year. The Senate accepted it as reported. It authorized loans of four hundred millions. Two days after the bill was approved, Secretary Chase resigned the Treasury, and Senator Fessenden, as shall be told in another chapter, was appointed his successor.

These great loans and the heavy internal revenue taxes were not the only provisions made by this Congress to meet the expenses of the war. An increased revenue from customs was provided for, the bill being reported from the finance committee by Senator Fessenden and debated. On several occasions during the period of this fiscal legislation, those who did not know the difficulties of framing the bills and who were impatient, aided by those who desired to exhibit an energetic patriotism by criticising Congress for its delay, made much of the opportunity to so criticise the lawmakers, and several times Senator Fessenden was put forward by the Senate as its spokesman, to defend Congress from the charge of dilatoriness. The last of the great revenue measures of the session was the new Tariff Bill. It had been under preparation for months, had gone through the House, had long been considered by the finance committee of the Senate, and was reported by Senator Fessenden on the 13th of June.

APPROPRIATIONS.

Though the measures for raising taxes, revenues, and loans required many months of consideration and debate, they were not so laborious, and specially not so disagreeable, as the appropriation bills were during the four years of war. These embraced not only the vast appropriations for the army and navy, but all the other expenses of the government, which seemed to grow in proportion. They required detailed and painstaking investigation of items to prepare them for consideration, and constant watchfulness and often sharp discussions in the Senate. The propositions for new undertakings were numerous, and immense sums were being expended. After all of these regular appropriation bills had been examined and reported by the finance committee, the utmost vigor and

persistence was necessary on the floor of the Senate, by Senator Fessenden, to prevent extravagant additions, or to stop injurious amendments ably advocated by other senators. The labor of the financial committees of the Senate and House at this time may be inferred from the growth of the appropriations during the four years of the civil war. The expenses of the government for the year before the war were \$66,000,000. For the first year ending June 30, 1862, they amounted to \$474,000,000. During the next fiscal year they rose to \$715,000,000. In the following year they increased to \$865,000,000, and in the last year of the war ending June 30, 1865, they formed the immense total of \$1,297,000,000.

The most vexatious feature in the management of the appropriation bills was the necessity of resisting the amendments proposed after the bills had been reported to the Senate. Debates would go off upon collateral matters, and much talk would follow that was not to the point at issue. This was well exemplified in the debate of February 11, on the Fortification Bill, which called for nearly seven million dollars. The recent threat of a war with England arising from the removal of Slidell and Mason from the Trent by Captain Wilkes had called attention to the defenseless condition of the Atlantic harbors. The Secretary of War asked for \$550,000, to be used for temporary earthworks at Portland Harbor, Maine, in case the President should deem it advisable to erect them. Mr. Fessenden called up the bill, saying the Secretary of War had notified him that the immediate passage of the Fortification Bill was important. The item referred to awakened much discussion. One senator wanted Narragansett Bay protected, another thought the harbors on the Great Lakes should be fortified; a third argued that earthworks were of no value against ships of war. Another confused

temporary works with the permanent fortifications under construction. A fifth senator wished the Pacific coast to be protected. Still another maintained that the best way to protect the coast was to march the army through the South and crush the rebellion. One would defend the harbors by invading Canada. The temper of England in the Trent controversy was discussed. Mr. Sherman proposed to strike out all the appropriations for existing fortifications and live in peace with all the world until the Rebellion was subdued. Mr. Fessenden was obliged to contend against all these proposed changes, one after the other, giving his nights to the study and research necessary to him for the next day's debate.

One of the early deficiency bills for the army was warmly questioned. Mr. Fessenden conferred with Secretary Stanton and General Meigs and satisfied himself of the urgent necessity of these appropriations. The bill met with objections. One senator thought much of the amount asked for could be saved without detriment to the service, forgetting that the amounts were required to pay debts already incurred. He was also of opinion that a proper pay bill could save at least twenty millions. Another could not vote for such large sums because he had not sufficient information as to their necessity. Another said it was of no use to make such immense appropriations as they could not obtain the money to pay them. It was impossible to pay such sums. Mr. Fessenden replied to them all in turn.

After much general talk upon the enormous expenditures and the need of more information, etc., the Senate passed the bill.

On the first of July Mr. Fessenden called up the Army Appropriation Bill for the next fiscal year. Its total amount exceeded \$500,000,000. At this time there

were 750,000 soldiers on the rolls. The casualties of war by wounds and illness had rendered large numbers useless, and the occupation of numerous posts had absorbed a large part of the army able to do duty. These incidents of service rendered the armies in the field much smaller than appeared natural to those unfamiliar with war and caused much question in Congress. The bill as reported from the finance committee proposed to limit the army to 750,000 men; and as Congress was to meet again in five months, it was Mr. Fessenden's opinion that it was wise to reduce the appropriations, and make them sufficient for part of the year. The committee had in conformity with this opinion made large reductions. But after conference with the committee on military affairs it was deemed advisable to leave the law as it then was, and allow the government the additional power with regard to an increased number of soldiers. Mr. Fessenden said that the idea of appropriating money for only a part of the year did not arise from any distrust of the government or its administration of the money, but from a safe and wise principle in a republican government, that while Congress should make liberal appropriations for the government, it should keep control of the whole subject of expenditure. If there was any one man in whose integrity, devotion to the country, and ability to manage the affairs intrusted to him he had confidence, it was the Secretary of War. He had no doubt he should always have that opinion.

Great as were the appropriations in the above bill, they were to seem moderate when compared to the bill for 1863-64. This was reported in January 28, 1863. As passed, it appropriated over \$725,000,000. The details of the bill were little debated. The Senate as well as the House was disposed to accept the recommendations of

the committees on finance and on military affairs. It was called up on January 28, the amendments read and accepted, and the bill passed, all on the same day.

The hope that the war would be over before these vast appropriations were all expended was not to be realized. The enormous expenditures were to continue and even increase through the fiscal year 1864-65. The appropriation bill for the army reported by Mr. Fessenden on April 18, 1864, and passed on April 22, was apparently less than the amount for the previous year. It carried but \$525,000,000. There was, however, a deficiency bill for the army covering about \$100,000,000, and for the navy for almost \$3,000,000. The expenditures by the government this year for the army and navy were double the amount of the appropriations, owing to the closing of the war and the disbanding and paying off the great armies of the republic. The additional sums were provided by legislation in the following session.

In the debate on this bill Mr. Fessenden said he would not oppose an amendment being added which placed the colored troops on the same footing as to pay and allowance as white troops. An independent bill had already passed the Senate to provide for this but was delayed in House, which led to the adoption of this amendment.

The principal discussion was over a proposition offered by Mr. Hendricks to increase the pay of the soldiers by fifty per cent. The bill as reported carried about \$185,000,000 for the pay of the volunteers and regulars. Should Mr. Hendricks's proposition be adopted, the enormous expenditures of the government would be increased nearly \$100,000,000. To engraft such a measure upon an appropriation bill without the recommendation of any committee, seemed to Mr. Fessenden as unusual and dangerous legislation. He regarded it as being of a party

character and a bid for popularity with the soldiers, and did not hesitate to speak plainly about it.

The proposition, he remarked, had been under the consideration of two committees. It had been carefully considered by them, and had been almost brought to a point when it could be reported to the Senate. It was a very difficult question. The senator from Indiana was wiser than the two committees. He proposed an appropriation that involved perhaps a hundred millions. He jumped at a conclusion, solved the difficulty at once, and informed the Senate what it should do.

The Senate had heard repeatedly from the senator from Indiana, during the session, about the great expenses of the government, the way in which Congress was raising money, the amount it was raising, the immense taxes Congress was imposing upon the people, the outrages the government was perpetrating upon the people in carrying on the war, and with everything but the pay of the soldiers the senator found infinite fault. Since he could solve with so much ease a difficulty which was puzzling two committees, would he not solve another difficulty and tell the Senate how to get the money. Two committees under the advice of the Secretary of the Treasury had been trying to solve the financial difficulties of the government to the extent at least of procuring money to carry on the war and keep up the national credit. If the senator from Indiana, with that illumination which seemed to shine through him with reference to these questions, would just enlighten the Senate as to meeting these difficulties which he was increasing, he would confer a great obligation upon all concerned. *He* would not propose to add fifty or seventy-five millions to the expenses of the government unless he had a mode for meeting them.

It was singular that the senator should propose this

in precisely this way when he found everything else was so wrong, if his word was to be trusted. According to him the government had no money ; it had no credit ; it was soon to be bankrupt ; it could not get along. He was in favor of the war, but the war must break down ; he was in favor of subjugating the rebels, but they could not be subjugated. The Senate had been so accustomed to that sort of thing from certain gentlemen that now it was expected as a matter of course. If the senator would aid in helping the government through the difficulties he seemed bent upon enlarging, he would confer a great benefit upon all who were concerned in devising ways and means to carry on the government.

Who had received this money ? For whom had the country involved itself, if it was now involved in financial difficulties ? The soldiery. The same story was told then that was told now. It was said "the country could not get the men without it." The country had paid these enormous bounties of \$400 or \$500. The men had received as much more from their cities or towns, and their families were taken care of if they needed care. The soldiers had reënlisted knowing their pay was thirteen dollars a month, and now it was proposed to add fifty per cent to their pay.

"Sir," said Mr. Fessenden, "I have a better opinion of the patriotism of the soldiers in the field—I will not say a better opinion ; that would not be proper—I will say I have as good an opinion of the patriotism of the soldiers in the field as I have of the patriotism of the honorable senator from Indiana. They enlisted within a short time, knowing what they were to receive, knowing the increase that they were obliged to pay for the ordinary sources of support, and I believe if you put the question to them to-day, 'Will you have your pay increased at the risk of

breaking down the finances of the government and putting a stop to the military operations and endangering the national cause?' with one accord they would raise their voices and say, 'No, no; and we despise and condemn the petty politicians who endeavor to make capital and trade out of our blood in this way.' "

He would counsel his honorable friends who voted with him, with all respect and proper humility, not to be frightened when the question of soldiers' pay was concerned; not to let their hearts beat so as "to burst the buttons off their jackets." Let them meet the question as statesmen. The soldiers in the field were men like themselves, and many of them were better men. They understood these questions, and they understood the motives of all these things. If there was a set of men in the world who had been well treated, watched over with kindness and care, and no expense spared to make them comfortable, although in the nature of things that care must sometimes fail, it was the soldiers of the United States, who were fighting their battles. And this cry about raising the pay of the soldiers without due consideration, and from gentlemen who were denouncing the government as on the eve of bankruptcy and unable to meet the requisitions upon it, came with a very singular air.

Mr. Fessenden closed by saying he hoped that gentlemen on his side of the chamber would have the courage to vote the proposition down, and meet the question when it came before the Senate properly, and with the proper information. Their justification was to be found in their consciousness of what was due the country.

The amendment to the army bill which the Senate adopted, providing that colored troops should receive the same pay and allowances as the white troops, encountered much opposition in the House. The House refused

to agree to it and there were no less than three committees of conference. Mr. Fessenden urged that the report should be adopted and the army bill passed.

The next day the conference report was accepted.

The naval appropriation bills were of a magnitude commensurate with the great war going on between the North and South. The opening of the struggle found the government almost without a navy. There was an enormous extent of seacoast to be blockaded. It was also a time when the navies of the world were upon the verge of an entire change in the build of vessels and the weight of guns. Wooden ships were to be supplanted by ironclads, and big guns were to take the place of small ones.

The general appropriation bill for the navy to cover the next fiscal year embraced nearly \$50,000,000. It was accepted without much discussion as reported from the finance committee. Mr. Fessenden succeeded in keeping off an amendment for the purchase of League Island near Philadelphia for a navy yard.

The increasing expenditure in the navy appeared in the appropriation bill for the year ending June 30, 1865. As finally passed it carried nearly \$110,000,000. Most of the discussions were upon questions of minor consequence, like the purchase of a piece of land adjoining the Charlestown Navy Yard for \$135,000.

Mr. Powell of Kentucky moved an amendment abolishing the fishing bounties, which he declared were of no benefit to the country and a tax upon the West. On a previous day Mr. Powell had said that he would not degrade Kentucky by comparing her military achievements with those of any other State in the Union.

Mr. Fessenden replied that he made it a rule not to be drawn into debate on appropriation bills. He did not hear the senator's speech of the previous day. His

speeches were made for political effect, and it was not worth while to listen to such speeches. New England was beyond the reach of the senator's words. The senator could not touch her proud record, and to use a quotation the senator himself had recited, his words were on that subject "full of sound and fury, signifying nothing."

The senator might make something out of his sectional appeal in Kentucky. Mr. Fessenden said he had never uttered a word against Kentucky. He knew the position in which she was placed, and he made all proper allowances for her situation and those who represented her. He had never made an appeal to create an excitement, especially among those who were laboring in a common cause. He could not give that credit to the senator from Kentucky. The senator claimed to be laboring in the same cause and he would not dispute it, but the senator's whole language, demeanor, and argument in the Senate were calculated to effect anything but union. If he wished to repeal this law, why not confine himself to that? Why make an attack upon the section where it operated? So far as the fishing bounties were concerned, rather than have the slightest feeling between New England and the West, he, Fessenden, would sweep them out of existence.

DEFICIENCY BILLS.

The regular appropriation bills, though great in amount, were supplemented by large deficiency bills which caused much debate, as many additional items would be proposed as amendments. The rise in prices made it impossible to keep within the estimates. In 1863 Congress enacted the law for enrolling and calling out the national forces. Under this act the President could call for such numbers of men as he thought necessary. It has been seen that 1,000,000 men were authorized by the laws of 1861-62.

In the summer of 1862 calls were made under which more than 500,000 additional men were raised. In October, 1863, and February, 1864, more than 370,000 troops were furnished. Besides these, 1,100,000 more men were called for in 1864. These calls did not include 300,000 militia called out for short periods. Reduced to a three years' standard of service, the loyal States furnished over 2,300,000 men, though many of these enlisted twice. These numerous calls for hundreds of thousands of men, some of which were not foreseen, and the constantly increasing cost of the material of war, caused enormous deficiencies, all of which were considered by Mr. Fessenden's committee, and reported and championed by him as the spokesman of the committee. In March, 1862, Congress appropriated \$213,000,000 additional to the regular estimates submitted by Mr. Chase in 1861. The deficiency for the army alone provided for by Congress in February, 1863, was about \$110,000,000.

As to one bill, on the day before it was called up the Secretary of War wrote to Mr. Fessenden stating that the large increase of military forces called for by the President's order of February 1, and the necessity for providing equipments, supplies, and transportation without delay, so that these forces might be ready to take the field at once, would more than exhaust the appropriations for the fiscal year, and the deficiencies should be immediately provided for. The estimates had been prepared by the heads of the bureaus of the War Department. The greatest deficiencies arose in the quartermaster's department, and related to the purchase of artillery and cavalry horses, the supplies of forage, and the transportation of the army. This large outlay was occasioned by transporting troops from the various States to the fields of operation, repairing and equipping railroads con-

stituting the lines of supply, and purchasing vessels and steamers for transportation by sea and on the Western rivers.

The bill coming to debate, Mr. Sherman criticised the departments for being lax and extravagant.

Mr. Fessenden said that in a great degree what the senator had said was just and true. With regard to the appropriations for war purposes, it was impossible for Congress to ascertain to what extent they were necessary, and all Congress could do was to take the estimates as they were furnished in detail by the departments.

Congress had conferred power upon the President to call out a certain or uncertain number of troops. That must be left to him. The war must be carried on. If there was anything the people were agreed upon, it was that no money that was necessary should be spared in order to accomplish the purposes of this war. All that Congress could do was to put the necessary power into the hands of the President, knowing him to be the only person who could judge of the case. Congress could not judge of it, because it did not itself carry on the war, although it authorized it to be carried on. Congress must get its information from the Executive. Having given the power to the Executive, if he calls for a certain number of men, Congress must provide the means of paying them and paying the expenses. For the expenses of the quartermaster's department, Congress must go to the quartermaster-general. For subsistence, they must rely upon the commissary-general. In regard to ordnance of all kinds, they must obtain their information from those who were familiar with the subject.

If he might dare to raise his voice so high as to expect it would reach the Executive Department, he would say if he were about to call out a certain number of men, that

it would be wise to inquire, in the first place, how many were necessary (which was undoubtedly done), whether any of them could be dispensed with, what they would probably cost, and whether there was money in the Treasury to pay them. If they were indispensable, he would have them without reference to money. It was to be presumed that all this was done in the most economical and proper way possible, with due and formal consultation of all the departments of the government, to ascertain whether a specific plan could be carried out. If that was not done, and the President was exercising his discretion in calling out a certain number of men in pursuance of the authority Congress had given him, then when that was done Congress must provide the means, and act upon such data as could be obtained from the departments. He made these suggestions to show the infinite difficulty under which they labored. They could not take the responsibility of cutting down these appropriations, for they did not know but that they were necessary. Mr. Trumbull said it appeared as if a state of things had been reached when all that Congress had to do was to appropriate the sums that were asked for. This led Mr. Sherman to admit that the quartermaster-general could not foresee the extent of operations of the armies. The best officers could not estimate for such contingencies. The losses in a single battle or the cost of moving a single corps would amount to an immense sum. All the details and estimates for these appropriations were contained in letters to the senator from Maine from the quartermaster-general. This did not satisfy Mr. Trumbull, for he thought members of Congress could judge of the cost of things as well as anybody; that Congress should exercise some sort of supervision.

This general debate consumed so much time that the bill was not finished that day. Meanwhile some more

deficiencies were sent in by the departments. Mr. Fessenden advised that the bill should go over for a day in order that senators might see the deficiencies asked for. When he called up the bill two days afterwards, he caused some laughter by asking leave to correct an error in one of the amendments adopted by the Senate. He said, ironically, a slight alteration was necessary in changing the appropriation for cavalry and artillery horses from \$17,500 to \$17,500,000.

The bill consumed two days of debate which was sometimes quite sharp. Most of the discussion was over small matters, or upon subjects foreign to the measure. In the course of the debate Mr. Fessenden became impatient at the delay, and criticised Mr. Trumbull for being so minute and fault-finding. Mr. Trumbull made a very handsome and dignified reply. Then there was a struggle for an appropriation to cover a deficiency caused by an unauthorized expenditure by the commissioner of agriculture, general criticisms upon the accounting officers of the government, propositions to increase or cut down salaries, and a tart debate over an insinuation that the West did not fare as well as the East. Finally, after consuming two days in discussing items which involved only a few thousand dollars, the bill, which embraced one hundred millions, was adopted.

It was Mr. Wilkinson of Minnesota who intimated that the West did not receive so much consideration as the East. He had on a previous day offered a bill giving bounties to the First Minnesota Regiment. Mr. Fessenden had moved its reference to the judiciary committee. This caused Mr. Wilkinson's remark, and he now said that the people of the West would fight for their country and not go forward one day and backward the next, like the Eastern army. The West had redeemed the States of

Missouri, Arkansas, and Tennessee, while the Eastern army had been swinging backward and forward like a pendulum.

Mr. Fessenden said he thought the "West, the Great West, the All-pervading West, had some interest in the Treasury of the United States, as well as the Atlantic coast. The senator's remark was of a sectional character and calculated to create ill feeling. He had not opposed the senator's bill, but was opposed to taking it without first referring it to a committee, a thing that was never done when it was proposed to take money from the Treasury; that the place he held in the Senate compelled him to run counter to the wishes of gentlemen; that it was his duty to resist steps in legislation that were dangerous, whether in favor of soldiers or sailors or anybody else; that to take a bill to pay regiments a bounty upon the mere statement of a senator without investigation had never been heard of in the Senate."

Mr. Wilkinson remarked that the regiment had served in all the battles of the Army of the Potomac.

Mr. Fessenden: What! And swinging backward and forward twenty miles one way and twenty the other. A Western regiment! Is it possible? (Laughter.) What a commentary on the soldiers of Minnesota by their own senator.

No man, said Mr. Fessenden, was more ready than himself to render justice to the soldiers of the West. Every Eastern man would vote anything that justice claimed for the West, or for other sections. Any imputation to the contrary was unjust. More especially was it unjust to sneer at the soldiers of the Army of the Potomac. They had been as ready to shed their blood as the bravest of the West. There was never a braver people on the face of the earth than Eastern and Western and Southern

men. He gloried in the courage of our enemies. Let the senator reflect that the commander-in-chief was a Western man. So was the President who appointed the officers. So was the chairman of the committee on the conduct of the war. "I wish," said Mr. Fessenden, "he was a general and in command of the army."

No class of bills required more attention than the Indian appropriation bills. The items were exceedingly numerous. In no branch of the government were there so many opportunities for waste and fraud. There were also many amendments emanating from the committee on Indian affairs and from the senators in whose States were located the Indian tribes with whom the United States had treaties. The treaties, the reservations, and the Indian agencies were fruitful of propositions for the expenditure of money. Constant effort was necessary to prevent looseness and extravagance in such legislation. The bill called up on April 17, 1862, was first debated, then so many amendments were offered it was postponed, then taken up a week later and discussed for three days. There were amendments for surveys, for annuities, for transportation, for purchases, for clerks, for instruction, for aid to sufferers from flood. The intrusion of whites upon the reservations caused great difficulties. Mr. Fessenden pointed out that many of the amendments were not authorized by law or treaty. The committee on finance prepared its appropriations upon estimates by the departments. Many recommended by senators had no such basis. He said many of the difficulties resulted from the system of the everlasting change of officers at the heads of bureaus, which was a system that as soon as a man understood his duties he must be turned out to give place to somebody else. The country must pay the penalty for such a system as long as it continued. He considered it an absurd system

to make treaties with Indian tribes as if they were independent nations. To his criticism that the States did not enforce their laws to protect the Indians against their own citizens, Mr. Nesmith replied that laws were not always enforced even in Maine, and he could obtain liquor there in spite of the Maine laws. Mr. Fessenden answered good-humoredly that the senator must have brought his superior Western skill to bear in order to obtain it (laughter), and said if Maine did not enforce her laws she did not call upon the government to do it.

The consideration of the Indian Appropriation Bill of 1863, which came before the Senate on February 23, demanded great efforts to prevent appropriations of money by amendments which added new measures not well investigated nor wholly understood by the Senate, but sought to be engrafted on the bill. An inflexible purpose was required to enforce the Senate rule which prohibited amendment of appropriation bills for the coming year, in order to cover expenditures which should have been included in deficiency bills. The numerous schemes offered in connection with these bills led Mr. Sherman to say that he always pitied the chairman of the committee on finance in a predicament of this kind, for it was his duty to keep off such amendments, as they were a violation of the spirit of the rules.

CIVIL APPROPRIATIONS.

The civil appropriation bills contained all kinds of appropriations and constituted a class upon which most anything might be appended. They embraced the coast surveys, the lighthouse system, the public works, the expenses of the departments, the Smithsonian Institution, the Patent Office, things omitted from other bills, and anything from repairs on the cellar of the President's house to repairs on the dome of the Capitol. They were

favorite bills on which to hang other measures. Owing to their numerous details and their large appropriations, they required great labor both in committee and in the Senate. They usually came up at the end of the session, sometimes consuming the larger part of the last night.

The Civil Appropriation Bill of 1863 came up on March 3, the last night of the session. There were numerous amendments and many new propositions. Debate upon it continued far into the night. It would be laid aside occasionally for a few moments to consider and pass other bills, and then would be again taken up. After many objections to improper amendments, it was finally passed in the early morning hours. Even then it had to go to a conference committee, and be again reported and passed by the two houses. With all this labor, the chairman had to report and have passed a bill modifying the tariff, attend a conference on the Internal Revenue Bill, and secure its passage in the Senate, all on the same night.

The same features marked the discussion over the civil bill of 1864. It came up on June 24, and was delayed by the usual amendments which were against the rules. Powell of Kentucky said that it carried iniquity enough to contaminate the nation. His wrath was probably excited by the successful effort of Mr. Sumner to secure an amendment which permitted colored men to testify in United States courts. An incident occurred in the debate over this amendment. Mr. Buckalew proposed an amendment to Mr. Sumner's, somewhat enlarging it. Mr. Sumner hoped he would not press it, though admitting it to be right, adding that he did not wish it put upon his amendment. "But," replied a senator, "that is just what other people say about your amendment." "I understand that," said Mr. Sumner, "but I wish to secure this

justice." "And I," answered Mr. Buckalew, "wish to secure this additional justice."

To avoid the imputation of favoring his own State, Mr. Fessenden had a recommendation for an appropriation to mark Alden's Rock, a dangerous reef off Portland Harbor, referred to the committee on commerce, which now recommended it. The Senate, on hearing his statement about it, adopted the amendment.

LEGISLATIVE APPROPRIATIONS.

The legislative appropriation bills embraced a great variety of subjects, and were a great source of vexation of spirit. They included the salaries of members of Congress, the public printing, the United States courts, the territorial governments, the executive departments, the mints, and many other particulars. The demands from all these sources were constantly increasing.

The legislative appropriation of the year 1863 came up on January 31, 1863, and was continued through February 2. There were discussions over the methods of printing the laws, over increasing the expenditures in the Bureau of Agriculture, over abolishing offices when work had ceased, and upon the abolition of the fishing bounties. To the proposition to increase the appropriations for the Bureau of Agriculture, Mr. Fessenden said that the committee had already increased them somewhat over those of last year, remarking that the question was whether the Senate intended to go on and on, increasing this bureau till it became a great department of the government. The committee on finance were opposed to that in the existing state of the finances. When the bureau was established in the previous year, he had objected to it on the ground that it would result in the bureau calling for a great increase of expenditure, and the country would

have fastened upon it a distinct department that would grow to be a very expensive one. It had always been doubted if Congress had the power constitutionally to establish a department of this description or appropriate money to encourage agriculture. It began with an appropriation of \$1000 for seeds. It had grown to \$60,000. Now in less than a year it asked for \$130,000. At that rate it would in another year be \$230,000. Was this the proper time to increase expenditures in that direction? Should this appropriation be made it would then be necessary to have a professor for these scientific experiments. To the assertion that the farmers demanded it, he would reply that in the present state of the finances that was no reason for doing it. A few gentlemen who called themselves farmers and some agricultural societies might demand it. They would like to have this department run on a grand scale. He thought this business should be left to the state societies. It was not wise for the general government to assume to do everything, as seemed to be the tendency of thought and action at the present day. The country was in no condition to do it. He was willing to continue the department as it was, but not to expose the country to having a great and expensive agricultural department of the government. Mr. Fessenden's predictions proved to be true. The Agricultural Bureau, which began with an appropriation of \$1000 for seeds, has now become one of the great departments of the government. Its chief is now a member of the Cabinet. The arguments made by some senators led Mr. Fessenden to treat them with good-natured ridicule. He had feared, he said, when the bureau was started that it was doomed to go on and grow. But he did not think it was worth while to let it do so on bald assertion and bad logic, for both were poor soils. It should be put on some sort of prin-

ciple. The argument of the senator from Kentucky was that as the country was compelled to spend vast sums of money in war, ergo, it ought to increase its expenditures for agriculture. We were at immense expense and were putting the people to all sorts of sufferings and privations to do what was absolutely necessary to save the government; therefore, put these large sums on everything else, when a good thing can be found, and do not wait till expenses are reduced. That was the substance of his argument. The true logic was, if they were compelled, for national preservation, to spend large sums of money at the present time, to wait a while for these things that could be dispensed with. All that Congress designed originally was to obtain some seeds and distribute them. Now it was proposed to establish this great department. They would be compelled to have an entomologist, then a museum for insects, then keepers of the rooms, then they must have clerks, then they must have an ornithological department, — these ologies came hard from his tongue, — then professors would be demanded, then a chemical department, and then all the rest.

He would ask where this was to end. It was not for the advantage of the farmers. It was for the advantage of the clerks, the keepers, and the professors to build up this department for show, but not for use. Gentlemen might cry out, This is for the great agricultural interest, but when it was proposed to tax the farmers for a department of all the “ologies” in the catalogue, it was humbug to talk about it being for the benefit of the farmers. It was simply taxing them more and more by increasing the appropriations for this department.

Mr. Lane called Mr. Fessenden the “father of the Senate.”

Mr. Fessenden replied that if he was understood to be

the father of the Senate he would give the senator from Kansas, as one of his children, a little advice, and that was, in their conflicts in the Senate, not to understand because a senator opposed his proposition that it was a sectional feeling which caused his opposition. Senators might be mistaken in their views. He himself was so very often, but he never gave a vote on any sectional ground.

There were numerous propositions from the army and navy committees during the war which involved increased expenditures. Mr. Fessenden opposed giving two dollars to every man enlisted, as there was no necessity for it. He resisted the proposition to give volunteers who had not been mustered into service nor had left their States the three months' extra pay given at the expiration of their term to those who had gone out into the service. He declared it to be an unwarranted expenditure of the public money. To the many propositions for giving increased rank and pay to classes of officers, he remarked that he had found that to be the only remedy for evils in the army. He was tired of that mode of correcting abuses. When there was unfavorable comment on the number of generals appointed, he said the members of Congress were as much to blame for it as anybody, and pointed out the fact that the number was none too great for the size of the army. He had opposed raising the pay of the army when there was no demand for it, and strongly resisted an amendment reducing all officers' salaries ten per cent. He declared it was unjust and founded upon no principle; that it made no distinction between large salaries and small ones. It was making a show of economy by doing injustice. The proper way was to correct abuses which cost millions. He had endeavored to put a limit upon the number of soldiers, but had been prevented. He had

sought to limit the amount of cavalry, but gentlemen would not consent to it. These were matters upon which money could be saved, but it was idle to try to save by striking off a few dollars from salaries. Officers had in many instances sacrificed a better income at home to serve their country in the army. They had left families at home whom they had to support, besides having their own expenses in the field. It was proposed to take off ten per cent of the officer's salary besides taxing every article which his family bought for their support. He regarded it also as out of place in the army bill, as Congress was preparing a tax bill which was to include an income tax.

One of the great sources of expense to the country during the war was the system of giving bounties to the volunteers. These questions came up in Congress early in the session of 1863-64, when the bill relating to soldiers' pay and bounties was brought in. Mr. Fessenden then said he "thought a mistake had been made in adopting the policy of offering bounties, which had been constantly increasing. Instead of increasing the patriotism of the people, it had tended to diminish it. It had turned the attention of the people from the fact that they owed their personal services to the government, to the consideration of how much they could make by holding off a little longer. At the first call for volunteers there was no bounty offered. At the second call for a larger number, although a small bounty was offered, there was no difficulty in filling up the ranks. The longer the war lasted, and as the people became acquainted with the hardships of campaigning, there would be more trouble in raising troops. But the course that had been adopted for raising troops was for the politicians of both parties to vie with each other in calling for large bounties. The result had been that instead of putting the matter upon the right

ground that every man *owed* his personal service to his country in its hour of peril, his attention was called to the question of how much he could get, if he waited a little longer."

The extraordinary exertions of the government in the year 1864 were shown in another joint resolution reported from the finance committee by Mr. Fessenden on May 2, to pay the 100 days' volunteers whose services had been accepted by the President. The resolution appropriated \$25,000,000 to pay equipment, subsistence, and transportation for this class of volunteers. The question in this debate was whether the President had a right to take these troops into the service. Mr. Fessenden explained the resolution and justified the action of the President. Mr. Fessenden favored increasing the force in the quartermaster-general's office in order to secure an early examination and settlement of army officers' accounts. The debate arose over a proposition to give the quartermaster-general some auditing officers who should audit officers' accounts under his direction and authority. Mr. Fessenden showed how impossible it was for the quartermaster-general to perform this duty except through others. He said the accounts came in literally by cartloads. His personal supervision was impossible. It required a great force to keep up the accounts. If this was not done great injustice was done to the officers entitled to have their accounts settled. These accounts should be audited and settled at a time when officers could obtain testimony, instead of being delayed until it was too late.

During the debate, General Meigs the quartermaster-general was attacked, his loyalty was questioned, and he was accused of having an arbitrary temper. Mr. Fessenden defended General Meigs, who was a personal friend. He declared his entire and most implicit confi-

dence in General Meigs's loyalty, in his integrity, in his devotion to the good of the service, and in his untiring and sleepless vigilance. He believed there was no officer connected with the government who discharged his duties with a more conscientious determination to perform them for the good of the service in all particulars. General Meigs might have errors like other men, but they were not want of principle or loyalty or capacity.

To this bill Mr. Fessenden proposed an amendment, which was adopted, permitting company officers, when they had lost their papers and vouchers by casualties of the service, to give their affidavit to go for what it might be worth in settling their accounts. He instanced officers who had had their papers destroyed in a battle, had been themselves wounded and compelled to leave their commands, and everything lost. This law proved a great assistance in settling accounts within a reasonable time, and caused no injury to the government.

An important measure relating to the public revenue was reported by Mr. Fessenden from the committee on finance on February 12, 1863. Its title was "To prevent and punish frauds on the revenue." The bill had been carefully prepared in the Treasury Department after a study of European laws relating to this subject, and after conference with the most experienced officials, both legal and administrative, in the United States. With all this consideration there were certain sections which Senators Trumbull and Howard criticised as giving too much power and discretion to the head of the Treasury and too much compensation in fees to prosecuting officials. Mr. Fessenden defended the bill and explained these sections, and also described the course of business in relation to the detection of frauds which was followed in the district attorney's office. Mr. Grimes also wished to have

one section changed. Then came more criticisms by Mr. Trumbull, then Mr. Harris sustained the bill, then Mr. Sherman was of opinion, etc., and finally the measure had its third reading and was passed.

There was a financial aspect to most all of the important measures of Congress during the war. This was so even to the conscription bill, which was debated for eleven days in January, 1864. The bill was amendatory of the law passed at the previous session providing for a draft. The first law permitted a drafted man to purchase exemption for \$300. Mr. Sherman proposed to make this \$500. The government would use the money so obtained as bounty to procure a substitute. The bounties offered by the government, added to those of the cities and towns, amounted in 1864 to \$1000 a man. This involved an enormous expense before troops were sent into the field. Yet with all this vast expenditure, which gave a sordid aspect to the later enlistments, the *proportion* of the citizens who served their country in the civil war was almost double that of the war of the Revolution. The newly settled Western States could furnish men more easily than money for exemption, because a greater proportion of the inhabitants were young. The Eastern States, with more capital and having more of the aged and of children among the people, could more conveniently pay the commutation with which substitutes could be procured. But after all, the payment of so much money was an additional draft upon the resources of the people. Mr. Fessenden, in discussing the amount to be paid for exemption, which he thought ought not to be raised, observed that his habit of thought in the Senate probably arose from the exclusiveness with which his attention had been devoted to the subject of money, and perhaps that might have narrowed his views in a very considerable degree. He had been

in the habit of thinking that that which lay at the bottom of the whole struggle was the ability to meet the expenditures of the war and so to conduct public affairs that at no time would the country be left in a position in which it would not have the means to carry on the war. He believed he saw that if that time should come, it would be found that the severest blow that could be struck had been struck at the success of the war they were carrying on. That was his objection to raising the amount of exemption, though he would admit that owing to the expansion of the currency the old amount would not be so large as it was originally. He said he did not understand that payment of the exemption fund relieved a State from furnishing its quota. If its quota was not furnished at the first call, the government would make another call, and continue until the necessary men were furnished. The system did not add a feather's weight to the States that furnished men alone. The idea of commutation he regarded as a wise one. It excused no State, but relieved many individuals who could not go. Nor did it diminish the force of the argument that every one owed his personal service. He would be willing to give up the idea of commutation if they would enforce the draft and give up the system of enormous bounties and put it on the ground of compulsion alone. If the sum fixed for commutation was too small, he would be willing to enlarge it, but they must avoid the risk of making such tremendous drafts upon what after all lay at the bottom of the whole.

Mr. Fessenden advocated an amendment which was of great importance to the coast towns which had furnished sailors to the navy, to count such enlistments toward making up their quotas.

The position of chairman of the committee on finance which obliged Mr. Fessenden to watch every proposition

to appropriate money, seemed on some occasions to place him in the attitude of always resisting measures introduced by other senators, or reported from the committees.

The proposition to fix the pay of colored troops elicited much warm debate and provoked one of those collisions with Mr. Sumner which made their personal relations unfriendly. The discussion over this measure had begun on February 4 and was continued at intervals until February 29. The main feature of the measure was to raise the pay of the colored troops from ten to thirteen dollars a month, and place them upon an entire equality with the white volunteers. Mr. Fessenden had always been strongly in favor of this, even at the beginning when the pay was fixed at ten dollars a month, saying that otherwise it might give a reason to the rebel authorities to treat the colored troops differently from the white troops. He supported this view now, but the measure was embarrassed by a number of separate propositions. The first one was retrospective in its nature, and proposed to give the whole body of colored troops this increase of pay from the date of their first enlistment. This he considered unjust to the Treasury. The men had enlisted knowing their pay was ten dollars a month, and there was no reason to do more than raise it for the future. But there were two regiments raised by Governor Andrew of Massachusetts, and two raised in the Department of South Carolina, which were recruited under the offer of the same pay as other volunteers. These regiments he thought ought to be paid the full sum of thirteen dollars a month, since they had enlisted under that offer, although the law did not authorize it.

One of the South Carolina regiments was commanded by Colonel Higginson. It was the regiment which was

organized from the remains of the first colored organization raised under the direction of General Hunter, and commanded by Mr. Fessenden's son, Captain, afterwards General, James D. Fessenden. Colonel Higginson had written to Mr. Fessenden and had satisfied him that the circular of the War Department under which the two South Carolina regiments had been raised offered the same pay as that received by other volunteers.

The resolution was recommitted to the military committee and a new bill was reported from that committee and passed, which conformed to Mr. Fessenden's suggestions. It placed the white and colored troops on the same footing for the future. It gave the two Massachusetts and the two South Carolina regiments the pay that was promised them, but did not give the back pay to the great body of black troops who enlisted with the knowledge that their pay was to be ten dollars a month.

Mr. Fessenden's position on this question caused him to be greatly misrepresented. He was accused of doing injustice to the colored troops, and of being opposed to placing them on an equality with white troops. The "New York Tribune" and the Boston "Commonwealth" were very severe in their criticisms.

The recital of Mr. Fessenden's management of the financial measures and appropriation bills during the war is long and dry, but it shows the extent of his labors, and its narration covers an important part of his evolution and growth in the Senate. Prior to the civil war the duties of the chairman of the committee on finance were comparatively light. Subsequent to that great conflict, when he ceased to be chairman, the Senate divided the committee into two, one on finance, and one on appropriations. The work was divided between them, although the vast appropriations for the war had ceased. The entire

appropriations for the year preceding the war were about \$85,000,000. Throughout the war they averaged about \$750,000,000. The close of the war brought entire ease to the Treasury. The rules of the Senate permitted endless debate. The "previous question," used so frequently in the House to stop debate, was not permitted in the Senate. It was necessary for the chairman of the finance committee to conduct his measures with vigor and determination. All his work was done by himself. He kept no private secretary, and the clerk of the committee attended to committee work only. Yet with all this, his table was always clear. Nothing was postponed and no work was allowed to accumulate. If his face sometimes exhibited impatience, and his language was too plain for those who were wasting time, it should be remembered that in the history of the Senate there was no other senator who encountered so many of his associates, or who had charge of so many important measures.

CHAPTER V

SEWARD AND STANTON : NEGRO SOLDIERS : LEGAL TENDER

1862-1864

THE preceding chapter was confined to Senator Fessenden's part in financial legislation, and this chapter will be given to other events participated in by him during the same period.

The autumn of 1862 was gloomy in the North. The Federal armies had not met with an encouraging success. The fall elections went against the administration; Mr. Seward was the Secretary of State, Mr. Stanton, Secretary of War, but there was a feeling in the North that the administration was not vigorous in maintaining and prosecuting the war. There was a desire for the removal of Mr. Seward and the substitution of a man who would be more vigorous than he in pushing the war. It was reported that Senator Fessenden was to succeed Mr. Seward, and he received many letters urging him not to decline if such a proposition was made. To all he replied that he would not consider the office, desiring no position other than the one he had and requesting that no action should be taken.

Prior to this time Senator Fessenden had taken an interesting part in the confirmation of Mr. Stanton as Secretary of War. The practice had grown up of confirming appointments to the Cabinet without a reference to committees of the Senate, but the nomination by Presi-

dent Lincoln of Edwin M. Stanton for Secretary of War, in January, 1862, astounded the Senate because Mr. Stanton was known as a Democrat, and many believed that his appointment indicated the adoption of a peace policy by the administration concerning the war. Upon receipt by the Senate of the nomination, Senator Fessenden moved that action lay over. The Republican senators held a consultation and requested Senator Fessenden to confer with Mr. Chase, the then Secretary of the Treasury, and ascertain the meaning of the appointment. Secretary Chase assured Senator Fessenden that he, Secretary Chase, was responsible for Mr. Stanton's selection, having urged it upon the President, and Secretary Chase said he would arrange for an interview that evening between Mr. Stanton and Senator Fessenden. Later in the day Senator Fessenden received a note from Secretary Chase as follows: —

MY DEAR FESSENDEN, — Stanton meets what I say just as I expected. He is more than willing to confer friendly with you. I send my wagon. Can you come down immediately?

Yours,

S. P. CHASE.

The interview occurred, and Senator Fessenden, on returning to his rooms, indorsed Mr. Chase's note: "I had a long interview with Mr. Stanton and found that we agreed perfectly on all points. If he acts up to his promises, he will be just the man for Secretary of War. W. P. F." The next day Senator Fessenden reported the result of his meeting with Mr. Stanton to the Senate, and Mr. Stanton was confirmed as Secretary of War. In a letter, at this time, Senator Fessenden writes: "The President astounded everybody last Monday by sending in a nomination for Secretary of War in place of Mr.

Cameron. I took the responsibility to have the matter of the confirmation laid over, as I was determined to know what it meant before I acted, and I sought and obtained an interview with Mr. Stanton. If he is a truthful man, and he bears a most unblemished reputation, he is just the man we want. We agree on every point: the duties of the Secretary of War, the conduct of the war, the negro question, and everything else. If he has the force of character and the will necessary for the place and the occasion, and he is said to have both, we shall soon, I think, see a new face upon public affairs, and God knows we need it."

Recurring to the Seward incident.

There was a feeling that Mr. Seward influenced the President in favor of a compromise policy towards the Confederacy, and the feeling grew so strong that a movement was made by the Republican senators to obtain his removal. They had a caucus and appointed a committee to confer with the President. Among Mr. Fessenden's manuscripts there is an account in his handwriting of this entire incident. It is as follows:—

On the 16th of December, 1862, during the session of the Senate, I was notified by the doorkeeper that there would be a meeting of Republican senators in the reception room immediately after the adjournment. Accordingly I attended, and in a few moments nearly all the Republican senators were assembled. I think Mr. Hale and Mr. Sherman were the only absentees.

The meeting was called to order by Mr. Anthony, our chairman, who requested that the object of the meeting might be stated, as it had not been made known to him. Mr. Clark said he had requested that the meeting might be called, at the suggestion of several senators, but he was

not precisely informed as to its object. After a short delay Mr. Trumbull said he believed it was called to ascertain whether the Republican senators would deem it their duty to take any action, or advise any action by the Senate, with regard to the present condition of the country, that the recent repulse at Fredericksburg had occasioned great excitement, and it had been thought best to ascertain whether any steps could be taken to quiet the public mind and to produce a better condition of affairs.

Silence ensued for a few moments, when Mr. Wilkinson said that in his opinion the country was ruined and the cause was lost; that the Senate might save it but would not for the reason that Republican senators would not adopt any united and vigorous course; that there were senators who would not support the majority in any plan they might devise for the safety of the country at this crisis, and he thought no good would come of any action that might be proposed. In his judgment the source of all our difficulties and disasters was apparent. The Secretary of State, Mr. Seward, exercised a controlling influence upon the mind of the President. He, Mr. Seward, had never believed in the war—had been averse to it from the beginning, and so long as he remained in the Cabinet nothing but defeat and disaster could be expected. Mr. Wilkinson spoke at some length upon this point, and I have given only the substance of his remarks.

Mr. Foster said that he did not by any means agree with Mr. Wilkinson that the country was lost. He thought it might be saved if immediate and decided action were resorted to. He did, however, agree with Mr. Wilkinson in the opinion that no improvement could be expected in our affairs so long as Mr. Seward remained in the Cabinet.

At this point a senator, I have forgotten who it was, moved that the chairman be instructed to offer in open

Senate a resolution expressing a want of confidence in William H. Seward, Secretary of State; but several senators objecting, the motion was withdrawn.

Mr. Grimes then offered a resolution expressing substantially a want of confidence in the Secretary of State, and that he ought to be removed from the Cabinet. Mr. Grimes proceeded to advocate his resolution, expressing the opinion that Mr. Seward exercised a controlling influence upon the President and improperly interfered in the conduct of the war, and in a manner injurious to the success of our arms.

Mr. Wade followed in a speech of some length, supporting the resolution offered by Mr. Grimes, expressing his own want of confidence in the Secretary of State, commenting upon the manner in which the war had been conducted, and particularly censuring the Executive for placing our armies under the command of officers who did not believe in the policy of the government and had no sympathy with its purposes.

Mr. Collamer said, substantially, that he believed the difficulty was to be found in the fact that the President had no Cabinet in the true sense of the word; that the theory and practice of our government recognized a Cabinet council. It was notorious that the President did not consult his Cabinet councilors, as a body, upon important matters. Indeed, he, Mr. Collamer, had understood the President to have expressed the opinion that it was best to have no policy, and let each member of the Cabinet attend to the duties of his own department. Mr. Collamer believed this to be unsafe and wrong and he thought measures should be taken to bring about a different state of things.

Mr. Fessenden said it was plain to him that the time had arrived when the Senate should no longer content

itself with the discharge of its constitutional duties. A crisis had arrived when its duty required an active interposition. From the nature and constitution of the body it could speak potentially. It should, however, proceed cautiously and with unanimity or its action would alarm the country and weaken the hands of the Executive without effecting any ultimate good. He had been opposed, hitherto, to any action by the Senate, for the reason that unanimity could not be expected, and without it any action would be unavailing and injurious. We should make an effort to see whether anything can be proposed which will receive unanimous concurrence. It had been said there was a secret influence which controlled the President. He, Mr. Fessenden, had been told by a member of the Cabinet that there was a back-stairs influence which often controlled the apparent conclusions of the Cabinet itself. The same official had told him, Mr. Fessenden, within a day or two, that until within a few days he had supposed the Banks expedition was to coöperate with General Burnside, and was astonished when he found that was not the case.

Mr. Howard interrupted Mr. Fessenden and inquired if the name of that back-stairs influence was William H. Seward?

Mr. Fessenden replied that no name was given; senators might draw their own conclusions. At all events, he, Mr. Fessenden, had no doubt that measures should be taken to make the Cabinet a unity and to remove from it any one who did not coincide heartily with our views in relation to the war.

Mr. Field also addressed the meeting at considerable length, expressing the opinion that it was the duty of Republican senators to take some decided action in the present crisis of affairs. Other senators spoke briefly to

the same effect, and the vote was apparently about to be taken, when Mr. Dixon said he could not vote for the resolution ; that though it was well known he, Mr. Dixon, did not think well of Mr. Seward, still he could not consent to single out him or any other member of the Cabinet by name, and pass a vote of censure upon him.

Mr. Howe spoke to the same effect. We should not proceed upon mere rumor. First ascertain the fact whether Mr. Seward did exercise an injurious influence upon the mind of the President. At present there was no proof of the fact.

Mr. Doolittle thought that any vote would be unwise in the present condition of affairs, and that a committee should be appointed to take the whole subject into consideration and perhaps ask an interview with the President before proceeding further.

Mr. King expressed substantially the same views. He thought the passage of such a resolution hasty and unwise — unjust to Mr. Seward, as it was predicated on mere rumors. As a senator from New York, he must protest against such a proceeding at this time. It would be much better to raise a committee who might have an interview with the President.

Mr. Cowan and Mr. Browning each said a few words, rather expressing a want of readiness to act upon so important a resolution than any opinion on the subject. No senator present, however, expressed his individual confidence in Mr. Seward, and all appeared to concur in the opinion that some action should be had.

It was replied by several senators that the resolution was merely intended to test the opinion of those present. It was not designed for the President or for the public eye. Mr. Fessenden observed that we must take a vote on some definite proposition or it would not be known how far we

agreed—and without entire unanimity our action would not only be without force but productive of evil. It was plain to him that the proposition now before the meeting did not receive anything like a unanimous concurrence, and should not therefore be adopted if it could be. He doubted if any proposition would find universal acceptance.

Other conversation followed, in which it was said that any vote we might pass would be known to the public, as experience had always proved. The necessity and propriety of keeping our proceedings secret was discussed, and it was so specifically understood and agreed.

A motion was then made to adjourn the meeting for further consideration until to-morrow, to meet immediately after the adjournment of the Senate—which was agreed to, sixteen to thirteen. I voted in the affirmative.

At the adjourned meeting on Wednesday (17th) all the Republican senators but two—Messrs. Foot and Ten Eyck—were present.

Mr. Harris proposed the following as a substitute for the resolution offered by Mr. Grimes:—

“Resolved, that in the judgment of the Republican members of the Senate, the public confidence in the present administration would be increased by a reconstruction of the Cabinet.”

Mr. Harris supported his resolution with a few remarks, and several senators expressed their willingness to adopt it if it should be found acceptable to all. Among these were Mr. Wade and Mr. Fessenden. Mr. Doolittle expressed his preference for a committee, as did Mr. King. It was replied that unless some definite action was had, the committee, if raised, would not know how far the Republican senators were agreed—that any resolution was not, necessarily, to be communicated to the President,

or any one else, but would be simply an expression of opinion among ourselves.

Mr. Sherman suggested that the resolution of Mr. Harris, as it stood, might be construed as an expression of opinion that all the members of the Cabinet should go out. He presumed this was not desired. No one wished Mr. Chase to leave the Treasury, which he had managed so ably. Mr. Sherman further said that he doubted whether changing the Cabinet would remedy the evil. The difficulty was with the President himself. He had neither dignity, order, nor firmness. His (Mr. Sherman's) course would be to go directly to the President, and tell him his defects. It was doubtful if even that would do any good.

Mr. Sumner then moved the following resolution as a substitute for that offered by Mr. Harris:—

“Resolved, that a committee be appointed to wait upon the President in behalf of senators here present and urge upon him changes in conduct and in the Cabinet which shall give the administration unity and vigor.”

Mr. Sumner supported his substitute by some remarks which I did not particularly attend to; but he was understood to agree with the views expressed by Mr. Collamer, and to consider some changes in the Cabinet necessary.

After consultation with Mr. Sherman and Mr. Clark, Mr. Fessenden moved to amend Mr. Harris's resolution so that it would read, “by a change in and partial reconstruction of the Cabinet.”

This was accepted by Mr. Harris, and Mr. Grimes then accepted Mr. Harris's resolution as a substitute. Mr. Sumner's resolution was then adopted as additional. The vote was taken by yeas and nays as follows:—

Yeas—Anthony, Browning, Chandler, Clark, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foster, Field, Grimes, Hale, Harlan, Harris, Howard, Howe, Lane of Indiana,

Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Trumbull, Wilmot, Wade, Wilkinson, Wilson of Massachusetts.

Nays — None.

Not voting — King.

Absent — Foot, Ten Eyck.

It was afterwards understood that Messrs. Foot and Ten Eyck concurred in the resolutions.

The committee was appointed by nomination, and consisted of Messrs. Collamer, Wade, Grimes, Fessenden, Trumbull, Sumner, Harris, Pomeroy, and Howard.

On the next day the committee met immediately after the adjournment at the request of Mr. Collamer, the chairman, all being present. The chairman stated that he had addressed a note to the President, requesting an interview, and the President had replied that he would receive the committee at seven o'clock this evening. Mr. Collamer further stated that in his opinion whatever communication might be made by the committee as such, should, in order to avoid all misconstruction, be in writing, and with this view he had drawn a paper, embodying the views of the Republican members of the Senate, as he understood them. The paper was read, and, with some modifications, adopted. It was then agreed that this paper should be submitted to the President as expressing the views of the meeting, but that each member of the committee might say to the President, upon his individual responsibility, what he chose.

Mr. Collamer then remarked that of course, should changes be made in the Cabinet in consequence of our action, each member of the committee would be under a self-denying ordinance so far as taking office was concerned — which was unanimously assented to.

The committee then separated.

The paper as finally agreed to is as follows : —

“A meeting of the Republican members of the Senate of the United States at which they were all present but two, after full consultation, came unanimously to the following conclusion (one present not voting): —

“1st. The only course of sustaining this government and restoring and preserving national existence, and perpetuating the national integrity, is by a vigorous and successful prosecution of the war, the same being a patriotic and just war on the part of this nation, produced by and rendered necessary to suppress a causeless and atrocious rebellion.

“2d. The theory of our government, and the early and uniform political construction thereof is, that the President should be aided by a Cabinet council, agreeing with him in political principles and general policy, and that all important public measures and appointments should be the result of their combined wisdom and deliberation. This most obviously necessary condition of things, without which no administration can succeed, we and the public believe does not now exist, and therefore such selections and changes in its members should be made as will secure to the country unity of purpose and action, in all material and essential respects, more especially in the present crisis of public affairs.

“3d. The Cabinet should be exclusively composed of statesmen who are the cordial, resolute, unwavering supporters of the principles and purposes first above stated.

“4th. It is unwise and unsafe to commit the direction, conduct, or execution of any important military operation or separate general command or enterprise in this war to any one who is not a cordial believer and supporter of the same principles and purposes first above stated.

“The Republican senators of the United States, enter-

taining the most unqualified confidence in the patriotism and integrity of the President, identified as they are with the success of his administration, profoundly impressed with the critical condition of our national affairs, and deeply convinced that the public confidence requires a practical regard to the above propositions and principles, feel it their duty, from the positions they occupy, respectfully to present them for executive consideration and action."

At the hour appointed for our reception we waited upon the President. He received us with his usual urbanity, and after we were seated Mr. Collamer rose and read to him our paper. Mr. Collamer then stated that the paper contained all he had to say on the part of the Republican senators, and that he had nothing to say on his own account — observing also that whatsoever others of the committee might see fit to add, they and not the Senate would be responsible for.

Mr. Wade then rose and addressed the President, mainly on the conduct of the war, and the fact that it was left in the hands of men who had no sympathy with it or the cause, commenting at some length on the recent elections in the West, imputing the defeat of the Republicans to the fact that the President had placed the direction of our military affairs in the hands of bitter and malignant Democrats.

To this the President made no response.

Mr. Grimes and Mr. Howard followed, both expressing their entire want of confidence in Secretary Seward, and their belief that he had entirely lost the confidence of their constituents. They also expressed the belief that we should have no success until the command of our armies was in different hands.

Mr. Fessenden began by expressing the confidence of

the Senate in the patriotism and integrity of the President and disclaiming any wish on the part of senators to dictate to him with regard to his Cabinet. They claimed, however, the privilege, as his constitutional advisers, to tender him their friendly counsel when, in their judgment, it was rendered necessary by an emergency of sufficient importance — such as the present. The paper read covered all the points suggested by the Republican senators as a body. Mr. Fessenden had no new points to suggest, but would state some matters by way of illustration.

A belief existed in the community that the Cabinet were not consulted as a council — in fact, that many important measures were decided upon not only without consultation, but without the knowledge of its members. It was believed, also, that the Secretary of State was not in accord with the majority of the Cabinet and exerted an injurious influence upon the conduct of the war. Such was common rumor. The Republican senators believed that if such a state of things existed it could not fail to be attended with evil consequences.

Again, it was thought that the war was not sufficiently in the hands of its friends. Perhaps at the outset this was unavoidable, as the officers of the regular army had little sympathy with the Republican party. They were largely pro-slavery men and sympathized strongly with the Southern feeling. It was singularly unfortunate that almost every officer known as an anti-slavery man had been disgraced. He instanced General Frémont, Hunter, and Mitchell, and others. It was time to change this condition of affairs. The war should be conducted by its friends. The administration must protect itself. It was evident that it had nothing to expect from the Democracy. General McClellan had been used for party pur-

poses and was now busy in making an attack upon the government, as was obvious from his statement in the McDowell case. The government had the power to show the falsity of his statements, and it was due to the country and the party that the government should make known the true state of the facts.

At this point the President rose and said the explanation was very simple. Mr. Fessenden stopped speaking, and the President produced a large bundle of papers and read several letters to General McClellan, showing that he had been sustained by the government to the utmost of its power. Some half hour was thus spent, and Mr. Fessenden did not resume his remarks.

Mr. Sumner next addressed the President, and commented freely upon Mr. Seward's official correspondence, averring that he had subjected himself to ridicule in diplomatic circles at home and abroad; that he had uttered statements offensive to Congress and spoken of it repeatedly with disrespect in the presence of foreign ministers; that he had written offensive dispatches which the President could not have seen or assented to. Mr. Sumner instanced a dispatch shortly after the passage of the Confiscation Act, placing the Confederates and the majority of Congress upon the same levels. It was dated (I think) July 5.

The President said it was Mr. Seward's habit to read his dispatches to him before they were sent, but they were not usually submitted to a Cabinet council. He did not recollect that to which Mr. Sumner alluded.

Mr. Trumbull also made some remarks, but their tenor has escaped my memory.

Some three hours were spent in conversation with the President, but no definite action was discussed. The President said he would carefully examine and consider the

paper submitted, expressed his satisfaction with the tone and temper of the committee, and we left him apparently in cheerful spirits, and so far as we could judge, pleased with the interview.

It was rumored on Wednesday evening that Mr. Seward and his son Frederick Seward, Assistant Secretary of State, had resigned. On Thursday morning I received information from a sure quarter that this rumor was well founded, but the fact was not generally known. The President, my informant stated, was much troubled about it.

On Friday (19th) Mr. Collamer notified me that the President desired another interview with the committee at seven and a half P. M. Arriving, I found several members of the committee and several members of the Cabinet in the anteroom. In a few moments all of the Cabinet but Mr. Seward and all of the committee but Mr. Wade (who had gone to Falmouth) were assembled. The committee then proceeded to the President's office, when he stated that he had invited the Cabinet, with the exception of Mr. Seward, to meet the committee for a free and friendly conversation in which all, including the President, should be on equal terms; and he desired to know if the committee had any objection to talk over matters with the Cabinet. Having no opportunity for consultation, the committee made no objection, and the Cabinet, excepting Mr. Seward, came in.

The President opened with a speech, admitting that the Cabinet had not been very regular in its consultations, but excusing it for want of time. He thought that most questions of importance had received a reasonable consideration — was not aware of any divisions or want of unity. Decisions had, so far as he knew, received general support after they were made. He thought Mr. Seward had been earnest in the prosecution of the war, and had not impro-

perly interfered — had generally read him his official correspondence, and had sometimes consulted with Mr. Chase. He called on the members of the Cabinet present to say whether there had been any want of unity or of sufficient consultation.

It was remarkable that in the course of his speech, which was quite long, the President, while averring that there had been a sufficient reasonable consultation, stated several instances in which most important action was had not only without consultation with his Cabinet, but without the knowledge of several: such as the appointment of McClellan and Halleck, the sending for General Halleck to act as commander-in-chief, placing the army under McClellan's command after his return from the Peninsula, and the Banks expedition.

After the President had concluded, Mr. Chase said that he should not have come here had he known that he was to be arraigned before a committee of the Senate. He went on to say that questions of importance had generally been considered by the Cabinet, though perhaps not so fully as might have been desired, and that there had been no want of unity in the Cabinet, but a general *acquiescence* on public measures; no member had opposed a measure after it had once been decided on.

Mr. Fessenden then said it should be understood what the positions of senators was, and repeated what he had before told the President with regard to the desire to offer friendly advice, and not to dictate to him, or interfere with his prerogative. In answer to what Mr. Chase had said about being arraigned, Mr. Fessenden stated what had previously occurred between the President and the committee on the subject of meeting the Cabinet. It was no movement of ours, nor did we suspect or come here for that purpose. Mr. Fessenden further said that he

thought all important questions should be discussed in Cabinet council, though the President was not bound by any decision made by his Cabinet, but might act on his own judgment.

Mr. Blair followed in a long and somewhat rambling speech, in which he contended that the Cabinet had and ought to have no voice except when the President called for it. He might require their opinions in writing. That was General Jackson's notion. He, Mr. Blair, had differed much with Mr. Seward, but believed him as earnest as any one in the war: thought it would be injurious to the public service to have him leave the Cabinet, and that the Senate had better not meddle with matters of that kind.

Mr. Grimes followed with some comments on Mr. Seward, expressing his entire want of confidence in him, and the belief that his presence in the Cabinet was injurious to the public interests.

Mr. Sumner again spoke of Mr. Seward as a diplomatist, and condemned his correspondence in very strong terms.

Mr. Trumbull called attention to the fact that from the President's own admissions most important questions had been decided without sufficient consideration.

Mr. Collamer said a few words in support of the views of Republican senators, or rather in explanation of the paper submitted.

Whereupon Mr. Bates entered into a constitutional argument to show that the President need not consult his Cabinet unless he pleased. Mr. Bates spoke of himself as a "garrulous old man," and I think there was a general acquiescence in the correctness of the description.

The President made several speeches in the course of the evening, and related several anecdotes, most of which I had heard before. In remarking upon the Proclamation with regard to emancipation, he said that Mr. Seward had

fully concurred after it had been resolved upon by him (it appeared without previous consultation with his Cabinet), whereupon

Mr. Chase called his attention to the fact that Mr. Seward had suggested amendments which strengthened it, such as the pledge to *maintain* the freedom of those emancipated.

After a long conversation the President desired senators present to give him their opinions upon the point whether Mr. Seward ought to leave the Cabinet, and to advise him what their constituents thought about it, observing that all the senators present had not given him their opinions on that point.

Mr. Collamer said he did not know what his constituents thought about it, and he was not prepared to go beyond the paper submitted.

Mr. Grimes said he had already given his opinion.

Mr. Harris made a speech in which he said that considering the state of parties in New York, and Mr. Seward's influence and friends, he thought his removal would be injurious, and he advised against it.

Mr. Pomeroy said he had thought highly of Mr. Seward, studied law in his office; but he had lost confidence in him, and so had his constituents, and he thought he ought not to remain.

Mr. Fessenden: "I believe I am the only member of the committee who has not expressed an opinion."

The President: "Yes, sir."

Mr. Howard: "No, sir; I have not."

The President: "I believe I understood Mr. Howard's opinion."

Mr. Howard: "Not from anything I have said this evening. I do not feel called upon to express an opinion here."

Mr. Fessenden : "I was about remarking that this subject has not, that I am aware of, been discussed in Maine, and I cannot answer for my constituents. I believe, however, that many who were formerly most zealous friends of Mr. Seward have lost their confidence in him. As to myself, I do not think this is the time or place to discuss the subject. Before doing so, I should wish to know whether the President means to follow the wishes of the Republican senators when ascertained. If so, and he desires it, I am willing to try and ascertain what those wishes are. At present I am not instructed to answer for them. Nor do I think it proper to discuss the merits or demerits of a member of the Cabinet in the presence of his associates—especially when I am not informed how far our opinions would be regarded. That is precisely my position."

Whereupon Mr. Chase said, "I think the members of the Cabinet had better withdraw." And they did so.

After some further conversation Mr. Collamer and Mr. Harris also left, and it was continued between the President and the senators remaining. Then Mr. Fessenden said to the President, "You have asked my opinion upon Mr. Seward's removal. There is a current rumor that Mr. Seward has already resigned. If so, our opinions are of no consequence on that point."

The President : "I thought I told you last evening that Mr. Seward had tendered his resignation. I have it in my pocket, but have not yet made it public or accepted it."

Mr. Fessenden : "Then, sir, the question seems to be whether Mr. Seward shall be requested to withdraw his resignation."

The President : "Yes."

Mr. Fessenden : "As the fact of his resignation cannot be concealed, and its cause cannot but be well under-

stood, my opinion is that all the harm which can be done in dividing the Republicans of New York has been done. The breach has been made and the withdrawal of his resignation will not heal it. Under these circumstances I feel bound to say that as Mr. Seward has seen fit to resign, I should advise that his resignation be accepted. Mr. Seward lost my confidence before he became secretary of state, and had I been consulted I should not have advised his appointment?"

The President: "I had no opportunity to consult you."

Mr. Fessenden: "No, sir; but my opinion at the time was, as expressed to Mr. Trumbull, that before forming your Cabinet you should come to Washington, where you could advise with senators. I am sorry you did not do so. Do you wish us to advise with our fellow-senators on the point suggested?"

The President: "I think not."

We then withdrew, at one A. M. Saturday morning.

It was observed by senators that the President did not appear to be in so good spirits as when we left him on the preceding evening, and the opinion was expressed that he would make no change in his Cabinet. He said that he had reason to fear "a general smash-up" if Mr. Seward was removed, and he did not see how he could get along with an entire change in his Cabinet. To an inquiry as to the grounds of his apprehension, he replied that he thought Mr. Chase would seize the occasion to withdraw, and it had been intimated that Mr. Stanton would do the same, and he could not dispense with Mr. Chase's services in the Treasury just at this time. It was replied that everybody in Congress and out was entirely satisfied with Mr. Chase, and if he withdrew it would be because he desired a pretext for doing so.

On Saturday (20th) I called at the War Department,

and had an interview with Mr. Stanton. He remarked that the interview of the evening before was the most impressive scene he had ever witnessed, and that he was particularly struck by the dignity and propriety exhibited by the senators and disgusted with the Cabinet; that what the senators had said about the manner of doing business in the Cabinet was true, and *he* did not mean to lie about it; that he was ashamed of Chase, for he knew better.

Mem.—At an interview with Secretary Smith some time afterwards, he confirmed Mr. Stanton's statements, and said he had felt strongly tempted to contradict Mr. Chase on the spot, but as he expected to leave the Cabinet very soon, concluded to be silent. Secretaries Stanton, Smith, and Welles did not say a word during our interview with the President.

Mr. Stanton further said to me that Seward had got up the resolution offered by Harris, with a view of producing the impression that the Senate proceedings were aimed at him, Stanton; that he, Stanton, had not tendered his resignation, and did not mean to be driven out of the Cabinet by Seward. I commended his resolution and left him.

Calling at the Treasury Department, I saw Mr. Chase, who told me that he had sent his resignation to the President, not as a matter of form, and should not take it back. I inquired his reasons, and he said that Mr. Seward and he came into the Cabinet as representing two wings of the Republican party, and if he remained he might be accused of manœuvring to get Mr. Seward out; and he thought he ought to relieve the President of any embarrassment, if he desired to reconstruct the Cabinet. Mr. Chase further said that Mr. Seward's withdrawal would embarrass him so much that he could not get along with the Treasury. He found that very difficult as it was, and

if he had to contend with the disaffection of Seward's friends, the load would be more than he could carry. It would be better if some new hand tried it, and he would remain for a few weeks or months unofficially, and render all the assistance in his power. He added, "You or Hooper or Sherman can manage well enough. No man possesses the confidence of the country to so great an extent as you do; and if you cannot be spared from the Senate, take Sherman or Hooper."

I replied: "You know very well that the part I have taken in this movement would effectually exclude me from a Cabinet appointment, if there were no other reason. But none of us could fill your place, nor any other man in the present condition of affairs. If your resignation means no more than placing your commission at the President's disposal, to save him from embarrassment, it is all very well, so that be understood. But if you are making Seward's resignation an excuse for withdrawing, you have done very wrong, and you will be obliged to abandon your design. The country has confidence in you. Congress has confidence in you. It is a critical moment. You know that nothing which has been done has reference to you. You know nothing of our movement and are in no degree responsible for it. You have no right to abandon your friends in this way, and the step will be ruinous to you as well as injurious to the government."

We had more conversation of like tenor, in the course of which he remarked that the result would be that neither of the resignations would be accepted.

I did not then know what I afterwards learned, that before tendering his resignation Mr. Chase had a long private interview with Mr. Seward, and that the President had declared, when he received Mr. Chase's resignation, that he would not now accept either of them.

It struck me, during this conversation, that Mr. Chase seemed to have very much modified his opinions, often previously expressed to me, as to Mr. Seward's influence on the mind of the President and the want of unity in the Cabinet.

Mem. — Mr. P. H. Watson, Assistant Secretary of War, knew Mr. Chase's opinion on both these points.

On Monday (22d) it was definitely understood that the President had declined to accept any of the resignations and that the secretaries were back again in their places. I am assured on entirely reliable authority that the President had determined to accept Mr. Seward's resignation and was about announcing it to his Cabinet Saturday morning, when Mr. Chase's resignation was handed him. Holding it up, he said, "Now I have the biggest half of the hog. I shall accept neither resignation."

On Monday, after the adjournment of the Senate, a meeting of the Republican senators was held. Before proceeding to business, Mr. Hale called attention to the fact that some one had made our proceedings known, notwithstanding the injunction of secrecy, as a considerable portion of what had transpired had been stated in the newspapers. He moved that senators present be requested to state upon their honor whether or not they had revealed what had been said or done.

Mr. King then said that he had felt it to be his duty to communicate the proceedings of the caucus to Mr. Seward and also to the President, and had done so, and after the proceedings of the second day, he advised Mr. Seward to resign, which he did. He could only say that as Mr. Seward was from New York, he, as senator from New York, considered it his duty to warn Mr. Seward of what senators were doing.

Mr. Fessenden said it was plain that Mr. King had

disregarded the expressed understanding of his fellow senators. For one he could not act further in caucus with a senator who took such views of his duty. If it was the correct view, no such thing as a free communication of opinions could exist.

Some further conversation took place, when

Mr. Hale moved that every senator be required to pledge his honor not to reveal what passed in caucus, and that any senator refusing to give the pledge should not be invited to attend future meetings.

This motion was unanimously adopted, Mr. King voting.

Mr. Collamer then reported what had been done, and read the paper submitted to the President. It was unanimously approved as expressing the opinions of the caucus.

Mr. Fessenden then addressed the meeting, expressing his hope that senators would preserve that calmness and dignity befitting their eminent position, and would not allow themselves collectively or individually to be betrayed into intemperate remarks or forced into an attitude hostile to the government, and moved

That the whole subject of making public the whole or any part of our proceedings be left to the discretion of the committee appointed to wait upon the President, which was adopted unanimously, and the meeting adjourned.

The committee subsequently voted to remove the injunction of secrecy, and that any senator might state as much or any part of the proceedings of the Senate or the committee as he might think proper. This was agreed to informally on consultation with Mr. Collamer in the chamber of the Senate shortly before adjournment.¹

The feeling which had produced this movement was

¹ Senator Fessenden's MS. ends here.

intensified by the disaster of Fredericksburg. Burnside had attacked Lee only to meet a bloody repulse. Mr. Fessenden thus refers to these events in a home letter :—

“The story of the last few days will make a new point in history, for it has witnessed a new proceeding — one probably unknown to the government of the country. It has led to the present complication. Had all men on whom we had a right to rely proved brave and true, and forgotten themselves in their love of country, I think it would have been productive of great good. As it is, the result will be to unmask some selfish cowards and perhaps frighten them into good behavior. The impression of those whose opinions are most worthy of confidence is that there will be no change. Yet such is the anomalous character of the President that no one can tell what a day may bring forth.”

December 24. “The Cabinet is all back again.”

Senator Fessenden participated in many of the general debates outside of those upon financial questions, — the arrests made by the Department of State, in which connection he defended the government making the arrests ; the debate to extend pensions ; the debate on the bill enlarging the power of the Court of Claims and authorizing it to draw upon the Treasury for the amounts it found due claimants. He opposed a resolution looking to take away some lands from the Sioux Indians and give it to the Minnesota white people. He opposed a bill to assist financially Missouri and other border States in emancipating their slaves, and he found time to prepare and deliver the eulogy upon Senator James A. Pearce, saying, by way of reference to Senator Pearce's death in the midst of the most eventful period of his country's history : “Was the dying statesman permitted, as the earth was fading from his view, to behold the future destiny of

his country, what may be the revelations of such a moment none living can disclose, and this is well. Could that mysterious veil be lifted but for a moment, even the stoutest heart might be appalled at what lies beyond. The terrible ordeal through which we may yet be compelled to pass before the end of this mighty struggle is attained might require more of courage and endurance than fall to the lot of many people, but faith and hope endure forever. To these angels of a merciful and righteous God we may look in the darkest hour for support to a righteous cause. Temporary defeat may await our armies, enemies may pervade our councils, rivers of tears may flow from sad and sorrowing eyes, clouds and darkness may be round about us, but hope for our beloved land and faith in its destiny will yet strengthen the patriot's heart and nerve his arm as he looks forward to the future."

With reference to this, the Thirty-seventh Congress, he wrote after adjournment in March, 1863 :—

"With all the labor and anxiety it has cost me, I am gratified to reflect that we have accomplished much. With all its faults and errors, this has been a great and self-sacrificing Congress. If the rebellion should be crushed, Congress will have crushed it. We have assumed terrible responsibilities, placed powers in the hands of the government possessed by none other on earth short of a despotism, borne contumely and reproach, taken the sins of others upon ourselves and forborne deserved punishment of flagrant offenses for the public good, and suffered abuse for our forbearance. Well, future times will comprehend our motives and all we have done and suffered."

He writes, March, 1863, in a letter telling about the demands upon his time :—

"I did not sleep one moment from six o'clock Monday

morning until five Wednesday morning, and then only for a couple of hours. During nearly all that time I was hard at work. My exhaustion was complete, and my whole system seems utterly prostrated in spite of all the sleep I have had since. When the season is far enough advanced so I can get into the garden, I hope to get up rapidly. That is, if all goes well with the country and with those whose welfare is so necessary to my peace of mind."

At this time he had lost one son in the battles of the war, and two sons were in active service, one with General Hooker and the other one recently wounded by a large minie ball which had passed through his arm, injuring the bone and permanently destroying the rotary motion of the arm. In all his anxiety and labors, his yearning for his garden cannot be suppressed. "How refreshing it would be to have one hour in the garden to examine everything! to pass into the vinery and enjoy its fragrance. All these joys are in store for me, I trust, and never any mortal more impatient to taste them. I hope Frank (the injured one) will soon pick up. For the rest, though, I am in no hurry to send him South again. You cannot conceive the terrible reluctance with which I see the dear boy start for duty."

General Hunter issued a proclamation that all the slaves in his department were free. President Lincoln revoked the order. General Hunter wrote to Mr. Fessenden: "Despite the storm provoked by my general order, No. 11, every day more firmly convinces me that to this complexion we must come at last. While our soldiers are employed in protecting the property of rebels, sending ladies, escorted, with information from our men into the enemy's lines, returning fugitive slaves or driving them out of our camps, and in every manner acting as a police force for the protection of the property of men who are in arms

against the government, I can see no end to the war. Liberate the slaves by proclamation and the props of the Southern Confederacy are knocked away."

Senator Fessenden advocated a more aggressive policy against slavery and agreed with Hunter. General Hunter began the experiment of organizing a regiment of colored troops. This was the first attempt. There was great opposition to it, even among General Hunter's staff. Senator Fessenden's oldest son, Captain James D. Fessenden, then serving as aide to General Hunter, was the only member of the staff willing to perform the duties of organizing and drilling this regiment. At first he doubted that they would make good troops, but a few weeks' drill convinced him that the blacks would make good, reliable soldiers, and Captain Fessenden writes to his father, in June, 1862, concerning this brigade, that "the fine appearance and good behavior of the men are a source of wonder to everybody." Later in the summer the President, who was not in favor of organizing colored regiments or utilizing slaves as soldiers, declined to have the colored regiment mustered into the service, which was necessary to give the men the right to pay and to be treated as soldiers, so that the regiment was disbanded except one company, which was employed by General Saxton in the quartermaster's department. This was the nucleus of the Massachusetts regiment enlisted and organized by Colonel Higginson. The regiment of colored men organized and instructed by Captain Fessenden was the first of its kind. The next attempt to organize a colored regiment was made in Kansas in September. General Butler raised and equipped two more in Louisiana, in October, and in January, 1863, was organized the immortal Fifty-fourth Massachusetts Colored.

At one point in the summer of 1862 Senator Fessenden had one son commanding a colored troop, another at the

front with McDowell, and a third at home wounded, and besides his sons, many of his relatives were in the service, and Senator Fessenden was watching for an opportunity to tell the administration that it must change its war policy and make increased efforts to crush the Rebellion. The opportunity came on July 9, in the debate on a bill reported to the Senate to authorize the President to call out the militia, to which an amendment was proposed permitting the employment of colored men. Senator Fessenden, speaking for the bill as amended, said, after an arraignment of the management of the war and its lukewarmness, that because of that the public enthusiasm had cooled, enlistments were reluctant because the people felt that their soldiers should not be compelled to guard the property and families of the traitors who were fighting against them; that they should not be digging ditches when there were colored men accustomed to the climate who could do it better; that the military authorities ought to avail themselves of the services of men who were equal to rendering these services. "Why are gentlemen so sensitive about employing negroes? What violations of the principles of warfare is it to employ such men and save the lives of our soldiers? Why not overcome the enemy by attacking him at his weakest point?" He could find no ground, no reason, for not using men who came into our camps in the enemy's country tendering information, tendering their hands and arms and lives to aid our cause. A general who repelled them and drove them away had forgotten the first principles of conducting a campaign. "Too much tenderness had been used toward the rebels, under the delusive idea that they were to be coaxed back by kindness. The government and the Cabinet and the generals must reverse their course, or public opinion would not sustain them. He did not believe in calling a defeat

‘a great strategic movement,’ or in giving false names to things. He would tell the people the truth, tell them frankly that more men were required, and they would meet with a response from every loyal heart.” This speech attracted a great deal of attention, but, as history knows, the President clung to the hope that the Confederacy would abandon the struggle before the complete annihilation of its forces and financial exhaustion, until after the battle of Antietam.

The historian, George Bancroft, after this speech, sent Senator Fessenden the following interesting letter:—

NEWPORT, R. I., July, 1862.

MY DEAR SIR, — The battle of Lake Erie was won by Perry in consequence of a reinforcement chiefly of black men. The crew of his fleet was about one quarter of them black. But the most important document illustrating your late speech is to be found in Henning’s Statutes of Virginia, whether of the session of 1782 or 1783 I do not exactly remember, but there is an index to each volume, and you can easily find it. In the War of the Revolution white Virginians were drafted to serve in the army. *Planters sent their own negro slaves to serve in the ranks as substitutes.* When fighting ceased, some were mean enough to reclaim their slaves and reduce them once more to servitude. The act to which I refer contains a statement of these facts in the preamble, gives good set terms of reprobation to those guilty of the baseness of reënslaving men who had fought in their stead, and by an act of legislature proclaims their emancipation.

At the time of making this speech, Senator Fessenden felt, with many others, much impatience and anger at the administration of President Lincoln for its lack of vigor

in the prosecution of the war, and the retention in command of generals in whose capacity he and others had very little confidence. Publicly, however, in order not to discourage the people, he and his friends in the Senate who felt as he did about it, kept silent, but in his confidential home letters he speaks very plainly his want of agreement with the war policy of President Lincoln and his advisers. This condition of mind continued until about the first of 1864, when President Lincoln's more aggressive war policy was felt, and the two men became more personally intimate, and from that time until President Lincoln's death he had no more ardent admirer of his nobility of character and purpose than Senator Fessenden. But the discouragement felt by many of the leading Republicans during the early part of the war is worth mention and is vividly shown by a few of Senator Fessenden's letters to his family.

February 23, 1861.

Mr. Lincoln arrived here early this morning, having come through last night from Harrisburg. It surprised everybody, as by the programme he was not expected until this evening, and many are indignant at what they call his "skulking into Washington." I, however, knew that he was coming then, and why. The truth was, no preparation had been made in Baltimore to protect him, and there was very good reason to believe that a plot existed to assassinate him. General Scott and others, therefore, advised a change in order to avoid the scandal and disgrace of such an attempt upon the President, even if it should fail.

January, 14, 1862.

We are in a world of trouble here. Everybody is grumbling because nothing is done, and there are no symptoms that anything will be done. The truth is that no man

can be found who is equal to this crisis in any branch of the government. If the President had his wife's *will* and would use it rightly, our affairs would look much better. Favoritism has officered the army with incapables. The Treasury has been plundered and mismanaged (not by the secretary), until there is little left in it, and God only knows how we are to replenish.

February 1, 1862.

I slept well last night, and feel, this morning, both well and comfortable. Waking early, my thoughts turned homeward as usual, and, shutting my eyes, I wandered for an hour in the garden thinking sweet thoughts. What a very, very hard lot is mine. I am deprived both of grace and of mercy. You never lost both, did you? When a man feels as if he could cut everybody's throat, and that everybody wanted to cut his, he is in a pretty bad condition. And such is mine, almost, when I contemplate public affairs, and think how powerless I am to stay the tide. At such periods sleep is a blessing, and a quiet hour of thought before plunging again into this whirlpool is precious. Oh that I had some loving friend to cheer me—to take me by the hand and “lead me into sweet pastures” as David or Solomon or some other equally respectable individual has suggested—referring, I suppose, to those “sweet fields beyond the swelling flood” spoken of by Dr. Watts—though I never could see any objection to sweet fields on both sides. Crossing the flood, however, is undoubtedly a very pleasant exercise, and the moment of getting over, and resting your wearied limbs in the “sweet fields,” must be very delightful.

WASHINGTON, May 17, 1862.

I have, however, no faith in McClellan, and he will have to be got rid of. He is either totally unfit for his position

or worse, and this opinion prevails in high quarters. But remember that I only say this much *to you*.

WASHINGTON, March 15, 1862.

You will have heard of the wooden guns at Centerville? It is all true, and we are smarting under the disgrace which this discovery has brought upon us. We shall be the scorn of the world. It is no longer doubtful that General McClellan is utterly unfit for his position. He has had more than 200,000 fine troops here for five months, supplied with everything needful, and yet has been held in check, at an expense of three hundred millions, by an army of not half his numbers, badly armed and supplied. And now they have withdrawn in his very face to a better and stronger position. Every movement has been a failure. And yet the President will keep him in command, and leave our destiny in his hands. I am at times almost in despair. Well it cannot be helped. We went in for a rail-splitter, and we have got one.

WASHINGTON, February 15, 1862.

I saw the President, accidentally, this morning, and had quite a pleasant chat with him. He is not free from apprehension about Halleck, but says he gets nothing which should particularly alarm him. He says that he has warned Halleck to be cautious. I asked him if he thought H. needed any advice on that point. His reply was that he did n't know that he did, but there was too much at stake on the battle, that no hazard must be run which could be avoided. I very much fear that over-caution has been our bane, though in this region it has been the fault of the general rather than of the President. Among other things he said that Franklin might have taken Norfolk when we first went down, instead of staying aboard his ships, but he (the President) was not inclined to blame

anybody because he did not do it. All this is not to be talked about. It is to be understood that Norfolk was taken in pursuance of the President's peremptory order that the attempt should be made.

General Hunter's proclamation has made quite a stir. It is thought that he was left at liberty to do as he pleased, particularly as he was to receive 50,000 stand of arms. Jim writes that he doubts if the blacks will make good soldiers in a hurry. Many say that they would be frightened if they saw their old masters. I asked Mr. Chase last evening if they would withdraw Hunter. His reply was, "Not with my consent."

May 24th.

You ask me about Yorktown. The simple truth about it was, as I believe, that our army could and would have taken Yorktown in thirty minutes, but General McClellan spent several weeks in *preparing* to take it, when the rebels ran away. He followed them, and when they reached Williamsburg and stopped, he stopped too, and prepared to *squat* again, when General Heintzleman won a hard battle on one wing. General Hancock made a charge and took an outwork on the other, and then when the rebels ran again, McClellan followed slowly, and has ever since been sending for more troops. McClellan has been drawing troops from McDowell, and McDowell, in his turn, from Banks, both claiming that they had a terrible army in front, until Banks has been left with but a few thousand, and is now cut off. Intelligence has reached the department that Jackson with a large force is behind him, and it would not be surprising to hear at any moment that he is captured with his whole force. Such may be the news before this letter goes to-morrow. We have but about 15,000 new troops scattered about the city, and none to send, if they could reach him. The two

Mac's have drawn off all the disposable force, and, as I think, they are such imbeciles that a great reverse would not surprise me. If we escape one, I shall rejoice at our luck. It will be owing entirely to the weakness of the enemy, and not to our own good conduct.

The truth is, I am terribly disgusted, and if things do not improve, I shall kick out at all hazards. There is a point beyond which silence would be criminal. There is a storm brewing in Congress. We have all but abdicated our rights and forgotten our duties from an unwillingness to censure our friends. This course cannot be followed much longer, for we are drifting upon the rocks. Even the President, I am told, is getting nervous, and I hope he is. I warned him long ago. Two pages on public affairs. Is that enough?

WASHINGTON, July 6, 1862.

We have had a terrible fright during the past week, and have hardly recovered from it yet. At one time it was feared that the Army of the Potomac would be obliged to surrender. Nothing saved it but the gallantry of the troops. The general is utterly unfit for his position and more than suspected of being a coward — morally and physically. It is truly marvelous that his reputation in the country seems to rise with every blunder — and his career has been nothing but a succession of blunders. All this talk of the enemy's immense superiority of force is mere *bosh* so far as effective force is concerned. English officers, as well as our own, say that his "great strategic" movement was bad and unnecessary, that he should have reinforced Porter and held his position. *But* he is surrounded by letter-writers who dare say nothing against him, and the truth is not told. After all, our *troops* have held their own everywhere, the enemy have been terribly straitened and driven back — *but* the army has retreated

from Richmond, the contest has been indefinitely protracted, and the danger of foreign intervention much increased. Seward's vanity and folly and Lincoln's weakness and obstinacy have not yet quite ruined us, but I fear they will. Oh, that I could speak without the fear that I might alarm and dishearten the country without producing any effect upon our rulers !

WASHINGTON, December 7, 1862.

How the poor soldiers must suffer — almost unsheltered as many of them are. *We* ought not to complain of anything while they are suffering such hardships. It is all to little purpose, I fear, for I see little hope that anything will be done. Common sense, if not common honesty, has fled from the Cabinet, and the country has little to hope, I fear, from either Mr. Lincoln or his advisers. I very much fear that there will be an outbreak in Congress, which would be perfectly justifiable so far as the government is concerned, but which would only aggravate the evil by effecting nothing beyond alienation and putting the President more decidedly into the hands of the Democrats. They wield the military power : *that* might give them the civil power also.

WASHINGTON, December 20, 1862.

You will see by the papers that we are all in confusion here. Some of the Cabinet have resigned, but the President has not yet accepted their resignations, and it is generally thought that matters will settle down upon their old basis. I could tell you several curious things which I cannot commit to paper. The upshot of all is that we are in a crisis, and such a curious compound is our good Abraham that no one knows how it will eventuate. His attachment to individuals and his tenderness of heart are

fatal to his efficiency in times like these. In the hands of some men who had integrity, sternness, and will, he would do well enough, but he must depend upon his surroundings.

WASHINGTON, January 24, 1863.

There is nothing encouraging in the aspect of our affairs here. Burnside has proved utterly incompetent, and who to put in his place is the question. I think it will be Hooker, who is a brave and good soldier, but, I fear, not very reliable. Is n't it a shame that no general can be found for such an army so well provided with everything, and in the best possible condition and spirits? But with the entire want of executive ability at the head, what can be hoped from the members?

WASHINGTON, January 10, 1863.

This morning I had a letter from another of your old friends. He wants me to get his salary raised, talks about the expense of living, etc. Nobody seems to think of the country in these days. Many of our poor soldiers have not had a dime for months. Hard, is n't it? I would be content to borrow and mortgage my house, if that would help them. Nobody can blame them for deserting. I am heartsick when I think of the miserable mismanagement in our army. In what is called the "Convalescent Camp" thousands are almost without shelter, and miserably provided with food—all through the stupidity of our officers, for there have been ample means provided. If I was secretary of war, would n't heads fall? The simple truth is, there never was such a shambling, half and half set of incapables collected in one government before since the world began. I saw a letter this morning written in good English by the King of Siam to Admiral Foote, which had more good sense in it, and a better compre-

hensiveness of our troubles, I do verily believe, than *Abe* has had from the beginning. But it's of no use to scold.

WASHINGTON, January 18, 1863.

Probably much of this uncomfortable excitement is owing to the unhappy condition of our affairs. I am sorry to say that everything wears a most gloomy aspect. Our financial troubles are thickening every day. Our army here is almost ruined, and melting away rapidly, and I know not how we are to get another unless we have some great military successes. Traitors are about as thick at the North as at the South, and how soon the government will find itself without support it is hard to say. It has lost public confidence deservedly, and the wisest men see no hope but from a reorganization of the Cabinet. Mr. Lincoln cannot be made to see his danger. Horace Greeley has been here, and it is said that he has gone home in good spirits, saying that Seward would be out in a week. If that is all, however, but little will be effected. The change must be far more radical in order to effect a change of policy and restore hope to the country.

WASHINGTON, February 21, 1863.

I have no news to tell you. The army is *not* moving, nor do I believe that it ever will, to any purpose, until thoroughly reorganized. The truth is, everything looks badly in all quarters, and I am sometimes almost in despair, the more so because I see no remedy. The "head is sick," and of course the whole body must suffer. But of this I will not write.

WASHINGTON, December 19, 1863.

The Army of the Potomac is stuck in the mud for the winter. I think Abraham's proclamation, take it altogether, was a silly performance, but he is lucky, and I

hope it may work well. Think of telling the rebels they may fight as long as they can, and take a pardon when they have had enough of it. He *is* funny—speaking of his smallpox, he said he had one thing that nobody wanted.

WASHINGTON, December 27, 1863.

If you read the "Globe," which I ordered to be sent home, you will see that I have been pitching into the government a little. My friend the Secretary of War was a good deal cut up about it, and complained to me of injustice. Perhaps my language was a little too strong, but the lesson was needed, and I trust it will do good. Mr. S. said he wouldn't have minded it from any other man, but the country believed everything I said, and he should be regarded as having willfully violated the law. He seemed to be more hurt than angry, and I shall set him right by and by, when occasion offers, as he is really much the best of the lot. I have not been to see the President yet, which I must do soon, as he has done me the honor to notice the fact.

The agitation for and against arming the negroes continued for some time, Senator Fessenden always defending the idea and encouraging it. One of his home letters says: "I see Phillips, Douglass, the 'Tribune,' and the whole tribe of such dogs, have been barking at me for my action touching negro soldiers. Well, they are wrong and I am right. So they may bark or howl as suits them best, and I shall stick to my text as usual."

The memorable Thirty-seventh Congress expired on the 4th of March, 1863. No Congress ever met under graver peril or performed its duties with more courage, promptness, and patriotism.

Senator Fessenden thought the movement to effect a

change in the Cabinet was necessary to give more efficiency to the conduct of the war, and though it failed, it produced some good. He favored placing all needful power in the hands of the Executive, thus putting upon it the responsibility of success. He gave distinct notice that if the government did not succeed they ought to give way to others, for in such times he would have no party or personal attachments, and would support no administration if it could not meet the necessities of the country.

He had been an admirer of England, but the conduct of its governing classes during the war had made his feelings a compound of contempt and dislike. Their repeated and gross breaches of neutrality, while pretending an honest intervention, had excited his wrath. He thought Mr. Seward's language towards England had not been bold enough, and said that the secretary had diplomatized too much. It had occasioned loss of time and money. He had no apprehension of any interference by England. She had too much to lose and too little to gain.

Military events continued unfortunate through the winter and spring of 1863. Light began to dawn in July when the successes of Gettysburg and Vicksburg came together to cheer the public heart. The President's proclamation giving freedom to the slaves of the States in rebellion had gone into effect on January 1. But while it could have no effect beyond the territory actually in possession of the Union armies, it gave increased confidence to those supporters of the administration who believed the salvation of the country depended upon arming the blacks. Many of the firmest Republicans had been discouraged by what seemed to them a conciliatory and hesitating policy on the part of the administration. This class of men now felt that the government was in earnest, and the coming elec-

tions would show that the people approved the earnest policy it was pursuing.

Mr. Fessenden received numerous invitations to address public meetings in the principal cities of the North upon the political situation. His health compelled him to decline them, however flattering. He felt that he performed his duty in this respect by making speeches to the people of Maine, and he needed rest to recuperate from his exhausting work in Congress. The coming election was awaited with great anxiety by the friends of the government. Like the other Northern States, the vote of Maine had heavily fallen off in the election of 1862. The Republican majority was only 5000. Maine was one of the earliest to vote. In the elections of 1863 all of the States which had faltered in 1862 now returned to the Republican column with overwhelming majorities. Maine gave a majority of 20,000. Mr. Fessenden made numerous speeches throughout the State. He was a most effective speaker before the people. Mr. Blaine, as chairman of the Republican state committee, wrote to Mr. Fessenden at the close of the campaign, saying, "I must not omit to thank you for the great speech you made in Augusta. Our people have felt that it did more real good for the cause than all the other speeches we had during the campaign. I get the same word from our friends in Franklin County. The result there was particularly surprising. The Democrats, not without reason, felt sanguine of carrying it, and yet our majority there is larger than in any previous year."

The friends of the government were encouraged, too, by the advance of the armies of the Union. After the victories of Gettysburg and Vicksburg, the Army of the Cumberland had met with a reverse at Chickamauga, but the supremacy of the government in that district had more than been recovered by the battles of Missionary Ridge

and Lookout Mountain. Secretary Stanton had shown his determination and energy by transporting two corps from the Army of the Potomac to Bridgeport, Alabama. These troops had fought the battle of Lookout Mountain under Hooker. Mr. Fessenden's oldest son, Colonel James D. Fessenden, was engaged in this campaign, serving on the staff of General Hooker. At the close of these movements General Hooker wrote to Mr. Fessenden as follows:—

RINGGOLD, GA., November 28, 1863.

DEAR SENATOR,— I have a chip of yours on my staff, and I am happy to inform you he escaped all the perils of our late battles, though much exposed.

Commencing with the 24th, we fought a battle each day for four days, winning all with many trophies. Your son is a trump.

Yours ever,

JOSEPH HOOKER, *Maj. Gen'l.*

The new Congress assembled on the first Monday in December. In the House it was marked by the absence of several noted Republicans who had been defeated by the political reaction of 1862. The Democrats also gained three able senators. These were Reverdy Johnson of Maryland, an old Whig friend of Mr. Fessenden, Thomas A. Hendricks of Indiana, and Charles R. Buckalew of Pennsylvania. With all these Mr. Fessenden occasionally crossed swords in debate: with Mr. Johnson, on constitutional and legal questions, and with Mr. Hendricks on constitutional and party questions. Mr. Hendricks became the Democratic leader in the Senate.

The Republicans had assembled with a determination to adopt strong measures against slavery. The advantages gained for the Union cause made Congress ready to give

the most generous legislation to support the government in suppressing the Rebellion. The great work of this Congress was its far-reaching financial measures and its liberal provisions for its great armies in the field and its great navies afloat. The tariff was to be revised and enlarged, the internal revenue to be increased and extended; the appropriations, owing to the increased cost of all materials, were to be greater than ever, and the obstacles in raising money more difficult to overcome. Mr. Fessenden was continued at the head of the finance committee, and as a member of the committee on the library with his friend Senator Collamer as chairman and Reverdy Johnson as the other member. With all of his absorbing work on the finances, Mr. Fessenden always took a keen interest in the library. Having charge of the appropriations, he was in a position to see that it was provided for and to secure any special appropriation to purchase a desirable collection of books or documents. Ainsworth R. Spofford, so long the librarian of Congress, in his reminiscences says: "Mr. Fessenden was a comprehensive reader, and delighted to browse at will among the books. When the question of purchasing the great historical collection of Peter Force came up, he was an earnest advocate of its acquisition, and his influence was a potential factor in obtaining it." Mr. Fessenden was for many years a regent of the Smithsonian Institution.

The committee on finance was made up to suit him, and he hoped for an easier time than in the preceding Congress. This hope was to be disappointed. The ensuing year was to be the most trying and arduous of the war. The session was to be for him more laborious than ever. The heavy additional taxation, both internal and on foreign imports, as proposed in the new bills reported, caused many obstinate discussions. It was contrary to his ideas of good

legislation to depart from the regular course of proceedings even in matters which commanded general assent. His insistence on having business follow the rules of the Senate provoked some personal controversies, especially in cases where members desired to rush through some legislation without sufficient examination.

One of the earliest acts of the Confederacy was a law to confiscate the property of citizens of the North. It was enforced with severity by Benjamin, then the Confederate attorney-general. This, and the increasing desires to strike a blow at slavery, caused the introduction in both houses of several strong measures of confiscation, and a bill was reported to the Senate embodying the main features of several bills offered by different senators who desired severe legislation. It provided for the confiscation of the property belonging to those engaged in rebellion and declared their slaves to be free. A similar measure was under consideration in the House. The more extreme provisions of the Senate bill were declared unconstitutional by Senator Collamer and Senator Fessenden, and Senator Fessenden in the debate stated, among other things, that he regarded the measures as useless and impolitic, though he believed in the power of Congress to pass a confiscation act within proper limits. Foreseeing that such a measure must pass in some form, he tried to have its provisions so moderated that it would receive the vote of the party and the approval of the President. The Republican senators were equally divided in opinion, one half urging provisions so severe that the more moderate half regarded them as violations of the Constitution. There was much bitterness of feeling shown by the friends of the stringent measures against Mr. Fessenden and against those who did not support the bill in the shape in which it had been reported. It was evident

if the measure was to conform to the Constitution it could not confiscate property for an offense committed previous to the act, nor work a forfeiture of real estate beyond the life of the offender. At the conclusion of the debate, Mr. Fessenden advised referring the bill to a new committee, to be, if possible, so framed as to remove the objections entertained by so many Republican senators. The Senate referred the bill to a special committee, who reported it back to the Senate with its extreme provisions much softened, so that the friends of the more extreme measures had its consideration postponed, preferring to wait for the House measure, which contained the stringent provision they wanted, and which they hoped to carry through the Senate. But the House bill met the same opposition, and it was in the end toned down in a committee of conference, and as finally passed at the close of the session it still contained provisions which the President could not approve. There was not time enough to pass another bill, and at the request of many senators Senator Fessenden called upon the President to ascertain his precise objections in order to have them removed, if possible. To accomplish this, a joint resolution was passed, declaring that the provisions of the act should not apply to offenses committed prior to the passage of the act, nor should it work a forfeiture of real estate beyond the life of the offender. Mr. Fessenden came in for much criticism for thus conferring with the President, but there can be no doubt that without the conference and explanatory joint resolution, the President would have vetoed the bill. The measure contained provisions of great consequence. It not only declared free the slaves of persons engaged in rebellion and declared free all slaves coming within the lines, or found in places taken by the armies, but it prohibited all persons in the service, on pain of dismissal, from surrendering a slave,

and it authorized the President to employ the blacks in any way to put down the Rebellion. It was said that at least one half of the slaves in the South would have found freedom under this act without any subsequent measure of emancipation. In the debate of May 6, upon referring the bill to a special committee, Senator Fessenden said there was no ground upon which he could be represented as hostile to confiscation. The measure was one of the utmost importance. There were great differences of opinion, both as to the constitutional questions involved and as to the details of the measure. He had thought that no bill could be passed unless it was one that had been examined by another committee. He was in favor of confiscating the property of rebels *under* the Constitution and not in violation of it, and doing it to the extent that he judged the good of the country required. But even if he was opposed to confiscation, he had a right to be, and no one had a right to question his motives or talk about the disappointment of the people. "In acting upon constitutional questions," said Senator Fessenden, "we should be unworthy of seats here if we allowed the wishes of our constituents to influence us against our deliberate judgments. It had always been the course when the Senate got into a difficulty from great differences of opinion about a measure, to refer it to a committee of friends of the principle. He always felt inclined to yield to the recommendations of such a committee as the best result that could be obtained." The measure was referred to a special committee, which reported a new bill disappointing to many, and they denounced the bill as giving confiscation in homœopathic doses, and as making treason easy. In the discussion of the bill, Senator Fessenden said something must be conceded in order to obtain any bill. Senators should yield to their own committee. He had

yielded his opinion to the committee on several points. But Senator Fessenden's influence in softening the confiscation measure had been so strong that the friends of extreme confiscation concentrated their wrath upon him, and the newspaper criticisms, which attributed unworthy motives to him, caused him great suffering. The difference of opinion in the Senate on this measure developed what was known in the Senate as the "Radical Wing" headed by Sumner, Wade, and Chandler, and the "Conservative," so called, under the lead of Collamer, Fessenden, and others, which wing usually controlled the action of the party from that time on. Senator Trumbull generally acted with the Conservatives.

He writes home, June 29, 1862: "You are writing me to-day, I trust, and once more is all I expect to need. I expect to be very unpopular when I come home, for I have voted on the unpopular side of the confiscation bill, against all the Maine delegation. It was not to be helped; with my opinions I *could not* do otherwise."

On the 27th of January the Senate took up the resolution offered by Senator Wilson of Massachusetts for the expulsion of Garret Davis of Kentucky for disloyalty. The resolution charged him with treasonable utterances and with violating the privileges of the Senate. Mr. Davis was an earnest Union man and bitterly opposed to the Rebellion, but he was equally opposed to any interference with slavery, and extremely violent in his denunciations of what he considered were the unconstitutional acts of the Republican party. His character was pure, he was an able lawyer, and his talents as a debater made him respected as an adversary. But he was the most interminable talker in the Senate, especially when there was a question of the constitutionality of a measure against the Rebellion. It appeared that the resolution for his expul-

sion was contrary to the judgment of many Republican senators, and an amendment was proposed which merely censured him.

Mr. Fessenden opposed both propositions. Mr. Davis had offered some resolutions upon the conduct of the war, one of which advised the people of the North and South to revolt against their own leaders, take the matter into their own hands, and call a national convention.

Mr. Fessenden said he would neither vote to expel nor to censure the senator from Kentucky. Either should be done only upon ground that admitted of no question. His view of the senator's resolutions was very simple. They were of two kinds. One was a mere string of truisms in part, and the others were merely abuse. In some degree they were matters of taste. Senators had different modes of gaining immortality, and each one selected the mode he thought best suited to himself. Some made speeches, interminable speeches; some laid resolutions on the table, almost equally interminable; some read orations; some presented bills; and some did all of these things. The senator from Kentucky indulged in all of these modes, as he had the undoubted right to do. To be sure, it might be rather severe upon the Senate sometimes, but that the Senate was obliged to submit to. The Senate was a sort of Liberty Hall, and each gentleman had a right to follow his own taste. He had read the particular resolution alluded to and had been unable to see in it that which was so offensive to senators.

Mr. Fessenden then analyzed the language of the resolution, adding that he could find nothing in it which would justify him in voting for the expulsion of the senator. He doubted if the resolution was susceptible of the construction which had been put upon it even without the disclaimer that had been made. It was easy to

imagine a state of things in any country when its government had become so obnoxious to the people that it was the duty of a senator to rise in his place and say, "I call upon the people to resist this outrageous exercise of authority." He was not prepared to say that a senator should be expelled for doing this. The senator from Kentucky had said many violent and unreasonable things about the administration, but in judging him one should look somewhat to his previous history to judge of his intentions. He had known the senator from Kentucky many years. They had formerly served together in the other house. They were formerly in accord, but they were not so now. He had never doubted that senator's devotion to the cause of his country nor his hatred of the Rebellion. He believed him to be a loyal man. He was disposed also to make great allowances to those coming from another section of the country.

He held there was no difference between speaking and writing as coming within the privilege of debate. Whether spoken in the heat of debate or deliberately written and read to the Senate, there was no distinction. The present case he regarded as debate. The senator from Kentucky had said many things which, without meaning to offend that senator, he thought had no foundation in fact; things that were intemperate, were in bad taste, and which at some future day the senator would be sorry for. But that made no difference. One man could not judge another's opinions by his own.

He considered it an infinitely wise rule that senators should not be questioned outside the chamber for what was said inside of it. The Senate had a right to punish inside of it for improprieties of words or acts, but it would be very dangerous to apply that rule to a commentary upon the government. The last thing he would seize upon

for punishment would be free, unlimited commentary upon the acts of the government. Everything depended upon having in the halls of Congress the privilege of expressing disapprobation of anything done by the President or his Cabinet. It was a great safeguard against corruption. It ought not to be limited in any shape. If a senator went beyond his proper limits, other senators ought to be the last persons in the world to restrain him. He thought the senator from Kentucky had been unjust and ungenerous, and he had a right to say so, keeping within the rules of legislative bodies. Senators who supported the government should meet such things, and not attempt to stifle the decided vigorous disapprobation of anybody connected with public affairs.

He considered the resolutions of the senator from Kentucky as unfounded, fallacious, calculated to deceive, a stump speech, and violent and inexcusable in character. But he would not restrain the senator. "I," said Mr. Fessenden, "support the administration, I uphold it, I respect it, I am ready to sustain it, I expect to stand by it. But if I cannot defend it against the attacks of the senator from Kentucky or any other senator, then he must have the advantage of me and he should be allowed to go out to the country and obtain all the advantage he can on that account."

They would make a confession of weakness by attempting to limit free expression. He was ready to meet the resolutions of the senator from Kentucky if they ever came to an argument on the floor of the Senate. He was, however, of the opinion that they were so bitter, so violent, so unjust that if the present debate had not sprung up, they would have fallen like a dead letter, and sunk into oblivion even if backed up by a three days' speech from the senator from Kentucky.

Holding these opinions, he could not vote for expulsion. He held to the largest liberty of comment upon every administration. If his friends on the other side got into power, he had no doubt they would afford him ample occasion to comment in the severest terms upon what they did. He wished to retain that privilege. The censure should come from a public opinion. They would find themselves on the downward road when perfect freedom of speech could not be exercised in the chamber without having the heavy hand of the majority placed upon it in censure.

It was evident that many Republican senators agreed with this view, and when Mr. Wilson closed the debate, he withdrew, by unanimous consent, his resolution for the expulsion of Mr. Davis.

Senator Fessenden favored the bill which prohibited senators, representatives, and other officers of the government from being counsel or attorney in any proceeding in which the United States was either directly or indirectly interested. "The proposition was a sound one." He regarded courts-martial as a class with which members should not be connected, for persons who had been tried often appealed to Congress. As public servants acting in a high capacity, they should keep themselves in regard to the affairs of the government clear of everything which might tend to cast a bias on their minds with reference to any matter or similar matters at a subsequent period.

In the debate over this bill, Mr. Johnson of Maryland alluded to two cases of courts-martial in Maryland and condemned the action of the Secretary of War. Mr. Fessenden explained those cases and defended the action of Secretary Stanton. The President and secretary had the same facts before them, were both able lawyers, and were better able to judge than the court itself. In the two

cases referred to there was no fault to be imputed to the President or Secretary of War. Mr. Stanton might commit errors. He had his faults like other men, but that he was a most true and devoted public officer, trying to do his duty under immense difficulties and with immense labors, he fully believed, and, so far as a man could know, he knew this to be so.

The extraordinary services of General Grant had caused the passage of a bill by the House to revive the grade of lieutenant-general. The bill included the name of General Grant for the appointment, and provided that he was to command the armies of the United States. The Senate committee on military affairs reported the bill with these provisions omitted. Mr. Fessenden supported the amendments reported by the committee. He said the President had the right to a free selection of the man to be nominated without the dictation of Congress and there would be a great impropriety for the Senate to indicate the man upon whose nomination it was to sit as a judge. The proper way was to authorize the President to appoint, subject to the confirmation of the Senate, a lieutenant-general of the army. But in voting for the Senate amendments, he did not wish to detract anything from the honor to be conferred on General Grant. He would say that if he had the selection he would appoint General Grant. He believed him to be a man of high moral courage as well as physical bravery. Such a man was needed at the head of the armies. General Grant had given the strongest indications of being that man. But he did not think it best, in the desire to honor General Grant, to depart from the true rule and dignity of the Senate.

Certain remarks of Mr. Fessenden's which annoyed Mr. Stanton were made on December 21. Mr. Fessenden had criticised the government for offering higher bounties

than it had been authorized to pay, and for adopting impracticable regulations for enforcing the draft. The laws, he said, should be carried out as enacted. The mistakes of the government had arisen from a devotion to the true interests of the country, and a desire to accomplish the great purpose they all had at heart. He would give it credit for the best intentions and would sustain it thoroughly in all its acts. But he was opposed to the system of high bounties which made the people forget that their first duty was to the country.

Writing to his son Frank upon this subject, he said: "My remarks rather graveled the War Department, but I think they will be productive of good by teaching the government that its power is limited by law. General Halleck told me that the secretary had given orders to send all the new troops in the North to New Orleans. General Banks was to be largely reinforced with a view to early and combined operations of Grant and Banks to clear the country west of the Mississippi, and then have a further combined movement in the spring. Grant means to take Mobile as soon as possible. Mr. Stanton says you decided right in declining to take the responsibility of changing the destination of your regiment. I regret exceedingly to have you go so far away. Never could father love a son more than I love you. You may draw on me for money when you wish. My purse is yours as well as my heart."

His son Frank had just raised a full veteran regiment, the 30th Maine, which had been ordered to New Orleans. Though greatly averse to taking his regiment to that climate, and permitted by Secretary Stanton to alter its destination, he declined to ask a change of his orders. The regiment arrived in Louisiana in February, and immediately participated in the disastrous Red River campaign

of 1864. Colonel Fessenden was badly wounded. With his son James in the Atlanta campaign, Frank in the Red River expedition, and Sam's life already given, Mr. Fessenden's anxieties throughout the spring and summer were very great. He said in a letter, "The loss of another son would, I fear, totally destroy what little energy I have left. But I shall try not to anticipate any such sorrow."

Early in March he had a severe ill turn, worse than any he had suffered for many years. As soon as he could crawl out of doors, he attended to work in his committee-room, but stayed out of the chamber for some days, as the air affected him unfavorably. By the middle of the month he was well enough to attend to his work as usual, and on March 18 participated in an interesting discussion upon the employment of slaves as soldiers and the power of Congress to free their wives and children. Slavery still existed under the Constitution. The amendment which abolished slavery was not adopted till the following year. The debate arose over an amendment to the bill providing for enlistments in the army. The amendment declared the wives and children of slaves enlisting in the United States forces should become free, and the persons to whom the wives and children owed their labor should be compensated out of any money in the Treasury. Mr. Fessenden maintained that Congress under the war power could make free the wives and children of the slaves enlisting in the army, but he opposed providing compensation to slave owners at that time, when nobody could tell how much value such slaves might have, and especially when the Treasury was in such a condition that they ought not to burden it in advance. He had never doubted that the country could avail itself of the services of every man in the republic, no matter what his condition, of whom a

soldier could be made. The idea that slaves could not be used was to him a preposterous idea. He had doubted whether in taking persons of this description for military service Congress could liberate others connected with them. But he had been convinced that Congress could do anything that was necessary for the salvation and perpetuation of the republic. If to effect that purpose it was necessary to free individuals connected with those whom it was wished to place in the military service, Congress had a right to do it, and Congress must be the judge of the necessity of it.

With regard to the question of compensation, he did not think it followed, because the property was taken, that the compensation must be provided for at the same time. Much property was taken in war and compensation provided afterwards. That question must be left open. It was an obligation which the government would perform in its own good time when it had obtained the proper information. At present the information could not be obtained, and therefore the question of compensation should be left open. Congress should not undertake to provide beforehand and put a burden upon the Treasury when least able to bear it.

Mr. Fessenden's responsibility for the proper completion of the business of the Senate compelled him often to resist for the moment the consideration of anti-slavery measures, in order to have passed the important appropriation bills. This caused him to be misrepresented as opposed to measures which he really favored, and as being conservative upon questions when he was as radical as any one. Spofford in his reminiscences says, "Mr. Fessenden was criticised, and even severely denounced, as being conservative upon the anti-slavery struggle, when an examination of his speeches and votes shows that he was not so."

An instance of this kind occurred on the 5th of April, when he moved to take up the Naval Appropriation Bill, stating that the Navy Department was desirous of having it passed at the earliest day, as the department was delayed in making its contracts. Against it Mr. Trumbull urged the pressing importance of passing the constitutional amendment abolishing slavery, and said that senators seemed to be indifferent upon the most important measure that Congress had ever had under consideration.

Mr. Fessenden replied that the senator from Illinois did injustice to other senators when he imputed an indifference to them upon the subject of abolishing slavery. He felt its transcendent importance and took as much interest in it as the senator from Illinois. He believed the only remedy for that great evil was a constitutional amendment. But the senator from Illinois intimated that those who voted to lay aside the constitutional amendment to take up another question were indifferent about it. What senators said or did in the course of their duty should be looked at with reference to their general characters and general action on these great questions, without an imputation of a want of earnestness. He did not yield to his friend from Illinois in zeal for the joint resolution, and regarded it as unkind in him, because he had made a motion which he thought his duty required him to make, that he should be accused of indifference to the great object the senator wished to accomplish. It was not just to convey that sort of impression to the country.

The Senate decided to proceed with the constitutional amendment, which was passed on the 8th by a vote of 26 to 6. Upon the announcement of the vote, Mr. Saulsbury of Delaware said, with a great solemnity, that he would now bid farewell to any hope of reconstruction of the American Union.

A similar incident happened on April 18, with Mr. Sumner. The Legislative Appropriation Bill came up in regular order, when Mr. Sumner appealed to the senator from Maine to let it give way to his own measure repealing all acts for the rendition of fugitives from labor. Mr. Fessenden replied that "the measure would occasion much debate, and he could conceive of no other motive in the senator's appeal than to put upon him the personal responsibility of delaying the repeal of the Fugitive Slave Law. The senator from Massachusetts knew he had given notice that he would call up the Legislative Appropriation Bill at this time, and had repeatedly urged upon the Senate the necessity of action upon the appropriation bills. The senator, instead of moving to substitute his own measure, and leaving the Senate to decide which it would consider, appealed to him to allow his measure to be taken up. The effect of his refusal would be that in certain quarters it would be represented that if it had not been for Mr. Fessenden the Fugitive Slave Law would have been repealed."

He was much opposed to wasting the time of members of Congress in investigation of matters which could be properly examined by other departments of the government. This feeling led him to oppose the joint resolution to inquire into the Fort Pillow massacre. Mr. Fessenden thought the investigation could be done as effectually by the Secretary of War, and that members of Congress should not be taken away from their appropriate duties in Washington. Every one held that if this outrage had been perpetrated it should be properly avenged. The War Department could investigate the matter as well as Congress. There was a sensitiveness in the public mind, not justifiable, however, with regard to the delay in Congress upon the great measures pending before it, and under such cir-

cumstances it was not wise to thin the ranks of the Senate by sending members away from Washington.

The unpleasantness of his position as watchman of the appropriations, which frequently obliged him to oppose a measure on which some senator had set his heart, was again illustrated on April 29, when he opposed the bill to establish a branch mint in Oregon. He argued that it was against the public interests, and was merely to gratify the people of that State. Senator Nesmith charged the senator from Maine with being always opposed to measures that would benefit Oregon. Mr. Fessenden answered that he was placed in a position by the Senate which required him to examine all propositions appropriating money. He was obliged to inquire into them and express his opinion to the Senate. This brought him frequently into collisions with other senators. His action was never affected by the senator who offered the measure. The senator from Oregon was one of the last he would oppose, for their relations had always been friendly, and he had recognized the zeal and manliness with which that senator had supported the government.

After Mr. Nesmith had left the Senate he wrote to Mr. Fessenden, saying "that though the latter had frequently opposed him while in the Senate, looking at those occasions now, he would confess that Mr. Fessenden was most generally right and he was most generally wrong."

April and May were two of the busiest as well as most anxious months for the senator. The long Internal Revenue Bill was before his committee. His son James was with General Hooker preparing for the campaign against Atlanta. His son Frank was in Banks's army, then moving towards Shreveport, Louisiana. Banks had already been severely engaged with the enemy and was in retreat. The financial measures before Congress were of the highest im-

portance. Mr. Fessenden feared a money panic, especially if the military situation should become unfavorable. The government hoped for a successful campaign to relieve the financial difficulties, but there were to be many weary months before this was to be obtained. Rumors began to come that Banks had met with a reverse, and this excited the money market. The first report of the battles in Louisiana stated that the 30th Maine had suffered severely, and that Colonel Emerson was wounded and left in the hands of the enemy. Mr. Fessenden was greatly alarmed, fearing that Emerson was intended for Fessenden, and passed some sleepless nights.

But when most deeply engaged in the financial measures, his anxieties for his son, which had been allayed, were to be tenfold increased. On the 8th of May he received the following dispatch from General Banks:—

“Colonel Fessenden was wounded in the leg at the battle for the possession of Monett’s Bluff on Cane River on the 23d inst. This position was as difficult of access as Port Hudson or Vicksburg and involved the safety of the army. He led the brigade which made the assault, and his conduct receives universal commendation.”

The dispatch had come down the Red River and up the Mississippi River by boat, until it reached the military telegraph to the War Department. It was nearly two weeks old, and anticipated by only a few hours a letter from General W. H. Emory, commanding the division. General Emory’s letter said Colonel Fessenden was in a comfortable house in Alexandria, that the principal bone of the leg was broken half-way between the knee and the ankle, and the surgeons hoped that amputation would not be necessary, and then gave the particulars of the engagement confirmatory of General Banks’s dispatch.

HEADQUARTERS U. S. FORCES NEAR CANE RIVER, LA.,
Midnight, April 22, 1864.

BRIG. GEN'L BIRGE, Comdg. Dets. 1 & 2 Divs., 19th A. C.

General, — Inclosed is a copy of the instructions I have received from Headquarters Department of the Gulf through the general commanding the 19th Army Corps.*

You will march as soon as General McMillan's command passes your present position, gain possession of the ford which is said to be about a mile above the regular crossing, cross the ford, turn the enemy's left flank, and carry his position by storm if possible. To cover your operations, General McMillan with the 1st and 2d Brigade of the 1st Division, and all the artillery of the army that can be brought into play, will make a direct attack in front upon the passage of the river. You will be supported by General Cameron. The noise of the shelling will be the signal for you to effect your crossing and make the assault.

(Signed) W. H. EMORY,

Brig. Gen. Comdg.

Headquarters 1st Division, 19th A. C.

DUNCAN G. MALKEN, *A. A. General*.

* Instructions placing me in command.

W. H. E.

Hd. QTS. 19TH ARMY CORPS AND U. S. FORCES,
MORGANZIA, May 3, 1864.

MY DEAR GENERAL, — First I congratulate you on your promotion. It was well deserved. Next I wish I knew something about your health, and I can only hope you are fast recovering and will soon join us. Lastly, can you fail to be disgusted at the lies told of our affairs in the Northern papers? See account in the "New York Times" of May 14th, purporting to give a true version of affairs in which another is given the credit of the flank movement by which the enemy was beaten at Cane River.

You know I was placed in command at that battle and gave the order the night before for this very movement, fortunately in writing. See inclosed order given to Brigadier-General Birge. Show this to your father, who has taken some interest in my affairs.

I am sick of the injustice and falsehood, and I may add corruption, which continues to obscure the truth and deprive men of their just rights.

Truly your friend,

W. H. EMORY.

B. G'L. FESSENDEN.

I do not know where you are and send this to the care of your father. W. H. E.

Let me know how you are getting on.

NEW ORLEANS, LA., May 13, 1864.

Colonel F. Fessenden, 30th Maine Volunteers Infantry, reported to me in February, 1864, at Franklin, La., in command of his regiment.

He remained in command of it on the march from Franklin to Alexandria, and on that from Alexandria to Natchitoches, and in the battle of Sabine Cross Roads, on the 8th of April last, where it, with the other regiments of the 1st Division, 19th Corps, repulsed the enemy, inflicting a severe blow upon him, saving the army from rout.

On the 9th of April last he commanded his regiment at the battle of Pleasant Hill, in which he did gallant and efficient service.

Colonel L. Benedict, who commanded his brigade, was killed in this battle, and after his death Colonel Fessenden was assigned to the command of the 3d Brigade, 1st Division, 19th Corps. He remained in command of the brigade until and on April 23d last, when it formed part of the

force which, under Brigadier-General Birge, was to turn the enemy's position at Monette Crossing, Cane River. Colonel Fessenden gallantly led his brigade during the battle, and the lists of killed and wounded show that this brigade bore the brunt of the action.

Upon the success or failure of this movement depended the question whether the army could or could not get safely to Alexandria. Colonel Fessenden was severely wounded in the battle, and has in consequence lost a leg.

I believe that Colonel Fessenden merits and should receive promotion for the gallant and meritorious services that he has rendered during the campaign, and I cordially recommend him for promotion to the grade of brigadier-general, feeling assured that no more worthy selection can be made from this department.

W. B. FRANKLIN,

Major-General Comdg. 19th Corps.

Mr. Fessenden's first thought was to go to New Orleans, but the time that had elapsed since General Emory's letter was written, the serious derangement that would be caused to the public business by his absence, as his place could not be filled by another, and the thought that his son might be dead or on his way home before he could arrive in Louisiana, made him abandon the project. In addition to all this, the battles had already begun in front of Dalton, and he was dreading the news from there. He said, "My anxieties are so great, I am hardly fit for anything. The consideration that James may need me even more than Frank now does, adds to my perplexity."

He wrote to his son immediately, expressing the hope that he would not lose his leg, and added, "Your name was sent to the Senate for brigadier-general, and was at once unanimously confirmed without reference. It was

done on Mr. Stanton's own motion, without any request from me. After the news arrived of your first battles, Governor Coney sent a request for your appointment. Mr. Stanton said you had earned your star and should have it ; that you had made yourself a brigadier on the field, and all that remained to do was to give you the written evidence of it. He told me he trusted it would be good medicine and help cure you speedily."

May 14th he wrote: "I have received letters this morning from N. O. giving the painful intelligence that Frank's leg has been amputated. The letters allude to one from Dr. Francis Bacon giving the particulars, but that I have not received. All the letters agree that he is doing extremely well. Under the circumstances I must wait, with what patience and firmness I can exercise, for the next intelligence."

His son arrived in New York by steamship from New Orleans on May 27 and was met by his brother William. Two days later they reached Portland, where the general had a public reception from the city authorities. His father, on hearing of his arrival, wrote him : "Good news has made me feel light as a feather. Welcome home, my dear boy, and God bless you ! I regret that I could not myself have been in New York to receive you, but public duty detained me, as I am engaged on the Tax Bill, and my presence here at this time is indispensable."

The arduous session and the overpowering heat was now taxing everybody's temper. On the 18th of June Mr. Trumbull criticised Mr. Fessenden while the latter was speaking against a measure of Mr. Chandler's. Mr. Chandler had reported a bill to grant certain aid and privileges to parties who proposed to construct a telegraph line across British and Russian possessions, and thence across Behring Strait, to connect with a Russian line across

Siberia. It gave to a private scheme the use of a public vessel and \$50,000 a year for ten years. Mr. Fessenden thought the provisions of the bill were monstrous, and left the government and the public at the mercy of the company. Mr. Chandler said that Congress reserved the right to amend or take away the privileges. Mr. Fessenden replied: "Undoubtedly, but when do we ever alter, amend, or take them away?" and observed that "the interests which controlled the measure so strongly would control it in the future. There was nothing before the Senate to give them information."

This was resented by Mr. Chandler, who said there was a report, and he thought it was downright impertinence to ask a committee to produce the contracts. Mr. Fessenden thought the Senate should see the papers and what the obligations of the government would be, and was sorry the senator from Michigan should have taken his suggestion amiss. His view was that the country was so pressed for money, the project could wait.

A motion was then made to go into executive session, when Mr. Trumbull argued that the Senate ought to proceed with the bill on account of the unparliamentary allusions of the senator from Maine, that the influences which had controlled Congress for the measure might control it hereafter on a question of repealing it. It was a great undertaking, and he preferred to see the bill pass.

Mr. Fessenden replied that he did not mean to impute wrong to anybody, least of all to the senator from Illinois, who was known to be so calm and self-possessed that he was always ready to yield his opinion. It was well known that a strong interest had been formed for this project. Important bills had been put aside for this private undertaking. Any improper insinuations had come from the

senator and not from him. The senator seemed to aim to put him in the worst attitude before the Senate. If the senator wanted a quarrel with him, he could have it.

Mr. Trumbull declared he would maintain the rights of the body. He considered remarks impugning the motives of senators as unparliamentary, and to Mr. Fessenden's demand that he point out his words that were unparliamentary, he refused to be interrupted. He asserted that the senator from Maine had caused much bitterness by such insinuations, and there was hardly a senator to whom he had not made remarks which led to —

At this point Mr. Doolittle objected that the debate was not in order, and the presiding officer so ruled, whereupon Reverdy Johnson moved that the Senate adjourn.

Mr. Fessenden thought it would be unjust not to give him a chance to reply, for he had been charged with giving offense to senators. Mr. Johnson said he wished to stop the debate.

It was evident that some senators were disposed to let Mr. Fessenden go on, while others wished to adjourn, to stop a personal controversy. Mr. Johnson insisted on his motion to adjourn. In feeling and dignified language he regretted the difference between the two senators; spoke of his constant association with both; of the error of the senator from Illinois in supposing the senator from Maine had been offensive towards other senators; that all men would say things under excitement which they would regret; that if the senator from Maine ever offended a member of the body, it was when he was vindicating himself, and not to inflict a wrong. That senator and his State had reason to be proud of his character in the body.

Mr. Johnson said he would make the same remarks of the senator from Illinois. If that senator occasionally transcended the bounds which his cooler moments would

have prescribed, he never intentionally offended anybody. Mr. Johnson then renewed his motion to adjourn. The Senate adopted the motion. On the next day the bill was so amended that Mr. Fessenden voted for it, though Mr. Chandler declared the measure was killed.

Writing on the 11th of June, he said he could not then see the end of the session, though he expected to get the Tax Bill in conference before three days, but it would take a week at least to fix it up. Meanwhile, he hoped to get the Tariff Bill through the Senate. "The gabbling propensity was as strong in committees as elsewhere, and this rendered it uncertain when their work would be accomplished." On the 26th he wrote that the thermometer stood at about 750° — that he had finished the Tax Bill and everything was progressing towards completion. "Oh for a breath of salt air. These nights are awful. I toss and tumble about vainly trying to sleep. How I envy you a climate where one can sleep under a blanket.

"I now think we may adjourn Monday morning if the two houses can agree on a conscription bill, which is the great stick. I am grieved to hear that Frank's leg has been troubling him. My impatience to see him increases day by day. I hope to get home in all next week. Indeed, I can't hold out much longer, for I never was so near utter exhaustion."

Worn out as the senator was, he was not to be permitted to see his home for six weeks, and then only for a few days. This was caused by the unexpected resignation of Secretary Chase, and the appointment of Mr. Fessenden to succeed him in the Treasury. In the morning papers of June 30 there was not the slightest symptom of a change in the Treasury. On the morning of July 1 appeared the following: "Washington, June 30, 1864. Secretary Chase resigned this morning. Governor Tod is nominated. The

Senate is in executive session." A later dispatch, after giving various surmises for Secretary Chase's course, said that it had transpired that a sharp fight was being made against Tod in executive session. Then followed various reports of Secretary Chase's discouragement; of his differences with the President and with the committee of Congress; of his disgust at the attacks upon him, and of his amazement that his resignation should be accepted. The newspapers were filled with all sorts of stories about the matter of committees waiting upon the President; of the universal condemnation of Tod's appointment by committees of Congress and by Ohio and Indiana senators and representatives; that Secretary Chase wanted Mr. Field for sub-treasurer at New York and President Lincoln Mr. Hillhouse; that Secretary Chase wanted President Lincoln to send a message to Congress embodying the secretary's views for further financial legislation, and that the President had refused, etc.

CONDENSATION OF THE SPEECH ON THE LEGAL TENDER BILL

The Legal Tender Bill provided, as it came from the House, that the government notes, amounting to \$100,000,000 or more, known as "greenbacks" popularly, should be a legal tender in payment of all debts, public and private. There was great doubt about it, but it passed the House on the 6th day of February, 1862, and came to the Senate on the 7th, and was reported from the finance committee by Senator Fessenden, with a request for immediate action, on the 10th, as has been heretofore stated. The bill which came from the House was amended by the finance committee of the Senate in four particulars: the first, instead of making the legal tender notes receivable for all claims and demands against the United

States, excepted interest on United States bonds and notes, which was to be paid in coin; the second authorized the secretary to dispose of the bonds at their market value for coin or Treasury notes; the third permitted the sub-treasuries to receive deposits to the amount of \$25,000,000 at five per cent interest, for which certificates of deposit might be issued; the fourth, that duties on imports should be paid in coin, and with proceeds from sales of public lands should be set aside to pay in coin the interest on the public debt and one per cent on the debt for sinking fund.

The debate was opened by Mr. Fessenden on February 13, when he explained the bill and its amendments.

He proposed, he said, before any question was taken, to make some remarks upon the bill. They might be very dull and very dry, for it was rather a dry subject. But it was his duty, as the organ of the committee, to explain the provisions of the bill.

He wished first to say a few words upon the position of Congress in relation to these bills regarding the currency. He did not agree with the remark of the senator from Ohio (Sherman), that Congress had delayed and the public credit had been impaired. Congress was not subject to any reproach for want of attention to the position of the country. These bills had first to be acted upon by the House. Such bills required great study and deliberation. No complaint could be made of the House, and its committee had worked most assiduously upon these subjects. If time had been wasted, it was wasted by the senator from Ohio in voting for the resolution to adjourn over the holidays, which he, Fessenden, had opposed.

The secretary had recommended taxation and a bank. Both required long consideration. A tax bill upon the various products of the country was a new thing and re-

quired much study. It was not the labor of a week or a month, and it required much information.

As to the bill authorizing the issue of United States notes, it was resorted to as a temporary measure in consequence of the necessities of the Treasury. It proposed something unknown to the country since its foundation, a measure of doubtful constitutionality, a measure about which opinions were much divided, a measure that had always proved disastrous. A measure so important to the future as well as to the present could not be passed at once. It should be amply discussed. It had received such discussion in the House, and it was time well spent. Such a measure was not resorted to in the last war with England. Every one had said that it was with extreme reluctance they would resort to a measure making the government paper a legal tender for the payment of debts.

The House bill provided for the issue of \$100,000,000 of notes which were to be a legal tender for all debts public and private, and for \$500,000,000 of bonds which were to be sold for lawful money or notes of the United States. The finance committee had reported an amendment that the interest on the bonds should be paid in coin, and to provide for this, that the duties received from imports, with the proceeds from the sale of public lands and the confiscation of rebel property, should constitute a fund to pay the interest on the bonds and form a sinking fund for the principal. Besides these provisions, the secretary was authorized to sell the bonds at their market price to raise money to pay the interest and to obtain means for the government. These amendments would sustain the public credit and place the public obligations upon a stable foundation.

The government had begun wrong. It should have sold its bonds at the market price in the beginning. It

should have gone into the market at the opening of the war when its credit was high and sold its bonds for the market price. He had not thought so then, but he had since reversed his opinion on that point. Instead of doing so, the government had borrowed from the banks all their available capital and crippled them so they could lend no more.

The committee thought, if this legal tender measure was to be adopted, that an assurance should be given that it was a temporary measure only. The Secretary of the Treasury had declared it was to be resorted to only on this single occasion. The proper way to give this assurance was by saying in advance that in future the secretary might purchase the means to carry on the war by selling the bonds at any price he could get for them; that the government would not put its paper on the market at par when it was not entitled to command it.

The committee believed its amendment, which authorized the deposit of the legal tenders in the sub-treasuries at five per cent interest, would give greater currency to the notes, and would not interfere with their conversion into bonds. He would submit an amendment requiring notice of intention to withdraw a deposit. It was his opinion that the twenty year bonds should be redeemable at the pleasure of the government after five years.

With regard to the great question of making the notes a legal tender, the committee made no recommendation, being divided upon the subject. They reported the clause to the Senate as it came from the House. Under these circumstances he felt at liberty to say what he had to say in opposition to that clause.

The ground for making the notes a legal tender was that of absolute necessity. The government was unable to obtain funds from the customary expedients, and there-

fore resorted to this anomalous resource in order to pay its debts and provide a currency. If the necessity existed, he would not hesitate. The government must be sustained. It had the right to seize the property of any citizen. That was called a forced contribution. But that point, thank God, had not been arrived at.

Public credit was founded on the ability and integrity of the government and its power and will to pay. The country had the ability, for its public debt was a trifle. It had twenty millions of labor-loving population. It had always paid its debts and was entitled to the credit of having the will to pay. It had the best capital, that of labor, and the policy of making that labor productive by educating it. If the Rebellion succeeded, the country would still remain a great nation. The country had laid the strongest foundations for its public credit. If the war continued two years and the debt became \$1,500,000,000, it would only be necessary to provide the interest.

The policy of the country had been to keep out of debt. It was a wise policy. A republic should spend public money with economy. Spending it carelessly sapped the morals.

All had been done in the conduct of the war that ought to be expected in the time that had elapsed. When the war began the country had nothing, no army, no navy, and was unused to war. Everything had to be learned. The country had to create everything. There was now a well-organized army and navy, and the cause was promising, and our integrity was unstained. The question then returned, Was this measure of legal tender absolutely indispensable to procure means?

What are the objections to it? First, it would not increase confidence in the ability of the country. Next, it is a confession of bankruptcy which is not calculated to in-

crease our credit. Again, it is bad faith ; but if it is necessary in order to save the government, all considerations of this kind must yield. To say that these notes shall be received in payment of all private contracts is a wrong, for it compels a man to receive in payment of a debt that which he would not otherwise receive, and what is not full payment. Again, it encourages bad morals, because, if the currency falls (as it is supposed it must, else why defend it by legal enactment), what is the result ? It is that every man can pay off his debts at a discount against the will of his creditor who honestly contracted to receive something better. Again, it must inflict a stain upon the national honor. We owe debts abroad, and Congress declared that these notes, made a legal tender, shall be receivable at whatever discount in payment. "I would not have our foreign creditors accuse us of bad faith." Again, it changes the value of all property. Gold and silver are the measure of value all over the world. We change it and the result is inflation, subsequent depression, and all the evils of an inflated currency. They cannot be avoided ; they are inevitable ; the consequence is admitted. The notes pass at par, but gold appreciates — and property appreciates. The Confederates are now in just this position. They are at the end of their course. We are just beginning ours. Again, a stronger objection than all is that the loss will fall most heavily upon the poor. Those most injured by an inflated currency are the laboring men in the first place, the small capitalist next, and the rich capitalist last of all.

But the answer to all these things is the necessity. But that, too, is to be examined. It is argued that the notes will not go without the legal tender. The answer is, They must go, so far as the government is concerned, and be taken by the public creditors. They need them. They

must take the money and suffer the loss, if any. It is better the public creditor should suffer than all the rest of the world should be wronged.

Will the legal tender clause make the notes any better? Will not property rise? Will not the seller put as much more upon the goods he sells the soldier? Will not the soldier's wife have to pay a higher price for the necessities she buys at the country store? The price is fixed in New York and a profit is added in the country. Nothing is saved for anybody.

But what do we offer without this legal tender clause? We offer the notes of the government with the interest secured beyond question if the amendments are adopted, with the power to deposit and receive five per cent interest at the sub-treasury and the power of the government to sell its bonds at any price to meet whatever it may be necessary to meet. The notes will not stand better by confessing on their face that they ought not to be received unless you compel them to be received by legal enactments. You discredit them in the beginning.

It was argued that the New York banks would not receive the notes unless they were a legal tender. Owing to their clearing-house system they could not otherwise use the notes to pay their balances. The banks would at any rate receive them as special deposits. If not they would lose much of their deposit, and their business could not be very profitable.

After all his study of the subject, he had concluded that owing to the peculiar condition of affairs nobody knew much about the question of public finance. He had never found any two learned financial men who agreed. Said Mr. Fessenden, "I can state to you, Mr. President, that on one day I was advised very strongly by a leading financial man at all events to oppose this legal tender

clause; he exclaimed against it with all the bitterness in the world. On the very next day I received a note from a friend of his telling me we could not get along without it. I showed it to him and he expressed his utter surprise. He went home, and next day he telegraphed me that he had changed his mind and now thought it was absolutely necessary; and his friend who had written to me now wrote again that he had changed his (laughter), and they are two of the most eminent financial men in the country. With all this I am obliged to draw upon the very shallow fountain of my own intelligence and my own study, although I acknowledge myself much indebted to many gentlemen for the aid they have afforded me.”¹

The credit of the country was rising abroad and he feared this clause would injure it. He had purposely left the constitutional question untouched, and it would undoubtedly have to be settled by the courts. The crisis was a great one. He had no doubt that the country would be able to meet its wants financially, and he thought it could meet them better without the legal tender clause than with it.

Although he made no argument upon the constitutional question, he agreed with Collamer of Vermont that the clause was unconstitutional.

Mr. Collamer made an able speech against the constitutional power of Congress to make anything but gold and silver a legal tender. He gave notice that he would move to strike out the legal tender clause. Subsequently when he was absent Mr. Fessenden said, if the question was reached while Judge Collamer was absent he would himself certainly make that motion. Mr. Collamer predicted that the first issue would be followed by more issues. How true this prediction was appeared four months

¹ These gentlemen were James Gallatin and Moses Ketchum.

later, when the second one hundred and fifty millions of notes was authorized and the third one hundred and fifty millions within nine months of the second.

The most effective speech in favor of the legal tender clause was made by Mr. Sherman. He argued that Congress had the constitutional power to do it, and the necessity for it existed. He said it was a temporary measure which they would not dare to repeat a second time. On the Democratic side, Senators Bayard and Pearce spoke ably against the power of Congress to make the notes a legal tender. Mr. Sherman delivered an interesting historical speech on the use of bills of credit. He thought Congress had the constitutional power to make the notes a legal tender, regarded it as bad faith, but yielded to the necessity of the occasion.

The debate continued for two days, though the Treasury was crying for aid. The second day Mr. Collamer moved to strike out the legal tender clause. Mr. Fessenden voted for the motion. The amendment was lost and the clause remained. Mr. Fessenden then submitted the important amendment making the proposed bonds redeemable at the pleasure of the government after five years and payable after twenty.

SENATOR FESSENDEN'S DEFENSE OF THE ARRESTS BY THE DEPARTMENT OF STATE.

A party debate was over the arrests made by the Department of State. By an arrangement with the Secretary of War this business had been transferred to Secretary Seward. Mr. Fessenden defended the action of the government in making these arrests. The discussion began on December 8 over a resolution offered by Mr. Saulsbury of Delaware directing the Secretary of State to inform the Senate why certain citizens of his State had been arrested

and confined in prison. The debate took a wide range, involving discussions of the power to suspend the writ of habeas corpus, the power to make arrests without legal process, and to confine men without trial. Bayard, Saulsbury, Powell, and Garret Davis attacked the action of the government in making such arrests as an exercise of illegal and arbitrary powers, destructive to a government of law, and subversive of the rights of the citizens. It was said in reply that instead of thousands of such arrests having been made as was asserted, only a few hundred had been ordered, that the government had been slow and reluctant to make such arrests and very moderate in exercising its power ; that its conduct had been just and humane ; that no lives had been taken, and no cruelty inflicted, and that most of those arrested had been discharged on taking the oath of allegiance to the government. Mr. Bayard thought such a condition when imposed was proof that the arrest was lawless, and declared he would rather stay in prison than submit to such an illegal condition. He considered the President's proclamation suspending the writ of habeas corpus as overthrowing the government. His colleague, Mr. Saulsbury, said that at the last election in Delaware its citizens had to pass through guards of soldiers in order to reach the polls, and some of the citizens had been arrested. Mr. Powell of Kentucky declared that the Democratic victories in the fall elections were the greatest moral victories the world had ever witnessed. The people had concluded that the Republican party had disregarded the Constitution ; they were appalled at the Emancipation Proclamation and the suspension of the writ of habeas corpus ; they were struck with horror at the profligacy of the administration, at the frauds upon the Treasury, and at the plunder of the public revenues. Amidst the terrorism and power of the administration,

the people had rallied under the Democratic standard to sustain civil liberty. A more sublime moral triumph the world had never known.

To this outburst from Mr. Powell a laugh was raised by Mr. Clark of New Hampshire, who merely stated that after a recent battle "Stonewall" Jackson had paroled some Union prisoners and advised them to go home and vote the Democratic ticket, adding that that would end the matter.

Mr. Fessenden first alluded to the wide range the debate had taken. The senator from Kentucky had discussed the acts of the President, and had talked about the recent Democratic victories. He had hoped that in the existing situation of the country as little as possible would be said of political parties. The President had shown by his appointments that his disposition was to forget there was such a thing as a political party. But the subject had been introduced evidently for the purpose of raising a political discussion. He alluded to it only to say that when the senator from Kentucky spoke of the triumph of the Democratic party as a moral triumph, he was at a loss to understand what the senator meant. It would seem to be a misnomer, a contradiction in terms, a thing that no one who had seen the Democratic party in its recent exhibitions of patriotism could claim for it. A moral triumph! The story told by the senator from New Hampshire illustrated the kind of moral triumph the Democratic party had gained.

He was willing to admit that the arrests made under the direction of the President were made without law. It was alleged by the Democratic party that these arrests were unjustifiable. It was asserted they were made in violation of the Constitution, and the country had heard continually and continuously this cry of danger to the constitution. He would confess that he was influenced

somewhat in his conclusions about this danger to the Constitution by observing from what quarter this cry came. He heard a long howl, and found it came from a pack of such a character that he would regard it no more than if it came from a pack of wolves. The cry came from newspapers which had from the beginning denounced the war, and expressed their sympathy for the Rebellion, and which had thrown all the obstacles they dared in the way of its suppression. The cry came from men who were known by their neighbors to be in sympathy with the Rebellion. If he blamed the President for anything, it would be for not being quite strong enough in his action against political presses. He believed, when one struck at all, in striking at the strong and not at the weak. If there had been failure anywhere it had been in not striking at the great heads of the disaffection. He would have struck at any influential newspaper that advised a general to seize the government. He would seize such a newspaper, and not trouble himself about the smaller fish.

The question was whether any great wrong had been done. He had alluded to the newspapers. The supporters of the outcry had been of the same description. He would say to the senator from Kentucky, in parliamentary language, that there were gentlemen in the Senate who had manifested more solicitude about the rights of individuals than they had about the great interests of the question at issue, so far as could be judged from their speeches in the Senate. He would not intimate they did not feel the same interest that he felt. But he must judge from what they said, and from what they did not say, and so judging, he feared their solicitude for individuals was greater than for the vast mass of the community engaged in this struggle.

The resolution as proposed by Mr. Saulsbury had peremptorily directed the President to furnish his reasons for making the arrests. An amendment had been offered which left it to the discretion of the President. Mr. Fessenden said there would be nothing disrespectful in the resolution if so amended. On the contrary, there would be an implication that the Senate trusted in his judgment and good faith to make known his reasons if he deemed it consistent with the public interests. Such a resolution would be in the ordinary form.

Mr. Fessenden pointed out the difference between the practice in the English Parliament and in Congress. In the former, the government had its ministers on the floor. If a resolution of inquiry for information was offered, a minister would express his opinion whether or not it was advisable to communicate the information. If he thought, in the condition of public affairs, it would not be advisable, that usually ended the matter. Congress had a different method. The government had no minister on the floor. It was not customary to send a peremptory order for information except for ordinary information that could be communicated at once without difficulty. The usual form in matters of delicacy was to ask respectfully that the President would communicate the information if he deemed it not inconsistent with the public interests to do so. If the senator's resolution had originally been so worded, there would probably have been no difficulty about it. But it was peremptory. He would not accuse the senator from Delaware of introducing his resolution to make political capital. He would take him at his word, and would ask his attention to one or two considerations.

Had these things taken place in time of peace, nobody would hesitate to call them outrageous and inexcusable, but the senator must acknowledge, what the people of the

country saw and felt, that there was a most unexampled condition of public affairs. The senator must acknowledge that in such times many things must be done of necessity and even with propriety, that could not be done in ordinary times. The senator must acknowledge that when a nation had an internecine war upon its hands, it was no time to stand upon trifles, or to exact too strict an account of the doings of public officers, so long as it was evident they meant to do only what the public good required. A senator would be too careful of private rights if he followed every slight infraction into the executive chamber when the country had been trembling for months upon the verge of ruin.

They should look at matters liberally. Did any man doubt the patriotism of the President? Did the senator from Delaware or Kentucky intimate that in all of his acts he had not been governed with a single view to the good of the country and the suppression of the Rebellion, or that he had willfully violated any private right in opposition to his belief that his action was necessary for the public good? No such charge had been made.

There was a mistake as to the responsibility under which the President labored. The President did not take an oath "to support the Constitution," but "to preserve, protect, and defend" it. All other officers swore to support the Constitution. The President alone swore "to preserve, protect, and defend" it. That was his paramount duty, and if to do that he was compelled for a time to violate the individual rights of a citizen, could any one suppose he ought to hesitate for an instant? Nobody pretended that the President had done anything more than this. Take the case of the Maryland legislature. The President believed those members intended to carry that State out of the Union into secession. There was no legal

evidence of it. But the President was satisfied of their intention to do it and it was his duty to incarcerate them. If the President honestly believed that this crime was to be perpetrated, he was justified in violating the rights of individuals under the Constitution in order to preserve it. He would despise himself if, placed in such a situation, he could hesitate to lay hands upon any citizen in violation of the Constitution, if he thought it necessary to do so in order to preserve, protect, and defend the republic.

There was only one question at issue. If the President believed that those men were about to commit offenses which were dangerous to the body politic in this time of trouble, was he justifiable in arresting their persons and confining them? His right in such a case could not be questioned. It was his bounden duty. Senators might wish to know the grounds of his proceedings, but if the President deemed it best not to tell, he was responsible to the American people.

The question, then, was a simple one. Was the President to be trusted? Had there been any abuse of power? Had there been a single instance of incarceration for the purpose of personal oppression? Had there been a single case of the exercise of this power by the President or a secretary in order to wreak malice upon an individual? Had this power ever been used except to protect the republic? No such complaint had ever been made.

If, then, senators did not believe that the President had ever willfully violated the rights of an individual in his efforts to protect the country, was there any evidence that the people thought so? There was none. The public mind was intelligent and understood the necessity of the President's acts. He believed in the maxim that the safety of the republic was the supreme law. Because the President in time of rebellion had seen fit to lay his hand

upon men without due process of law, he did not think he had forgotten what was due to every citizen. The country would believe that the President was acting honestly in an endeavor to preserve the Constitution. If the time came when the President or his servants exercised this power carelessly, he would call him to account. A man might be arrested in time of rebellion for a crime, and there might be reasons of state why the crime should not be made known. It was the fate of the government, it was the fate of a political party in power, to be denounced for what they did. The great question behind the whole was if what they did was a public duty. "We stand here," said Mr. Fessenden, "to aid the President in preserving, protecting, and defending the Constitution of the United States. What difference does it make to us what obloquy is heaped upon us, either collectively or individually? We pass from this stage before many days, and we cease to be of any consequence. It is vastly more important that we should take the responsibility that belongs to us while we are here. The simple question is whether we ought to drag out this 'information' for the mere purpose of silencing a clamor so bitter that it out-venoms all the worms of the Nile."

It might not be very illiberal to suppose that senators were more anxious to call public attention to these things than they were to relieve individuals. Had they ever requested the President privately to give them any information?

Mr. Saulsbury interrupted to ask Mr. Fessenden if he thought a Democratic senator would have received any explanation if he had gone to the department upon this subject? Mr. Fessenden replied that, so far as he had observed, the senators on the other side were as great favorites with the administration as anybody. The chief

magistrate was so magnanimous that in endeavoring to keep straight between both parties he had sometimes seemed to lean a little backward. (Laughter.) He had no doubt that the senator would receive the information if it was proper to communicate it.

The senator from Kentucky had talked a great deal about violations of the Constitution. He would say to the senator with all kindness that, while he made a broad distinction between him and his late colleague, now a Confederate brigadier, that his speeches were the same in substance as his late colleague's and were no better put. The President was charged with violating the Constitution for calling out troops in time of recess at a period of great public danger. He did so subject to the approval of Congress, trusting to its patriotism to support him. Had the country found any fault with his action? Had not Congress approved it? There were occasions when the President must choose between protecting the Constitution and violating it of necessity—must he hesitate in such cases? No, sir; he should be honored for it.

The President might have made mistakes. It was not in human nature to do otherwise. Men would do wrong in trying to do right. But they should not therefore charge him with violating the Constitution and make an issue upon that instead of keeping in view their great object, which was to restore the government to its original position. He would rather hear some word of disapproval of the great head of the Rebellion and his associates. Why such tenderness towards them? Why did they hear nothing but sympathy for the wrongs of those who were unfriendly to the government? These complaints might as well be deferred till the Rebellion was suppressed.

He had helped place the administration in power, and he would admit that in some cases the administration had

gone farther than he would. He did not agree with all of its views of the law. But so long as he believed the President had in view the single object of protecting the Republic, he would not quarrel with him. When he believed he was wantonly trifling with the legal rights of the humblest citizen, he would denounce the act and advise Congress to redress it. He would not renounce the powers of Congress. He held that the President exercised his military power subject to the control of Congress, and Congress would control him if the time came for it. Let not gentlemen assume that they were the only lovers of constitutional liberty. Let them show a wanton exercise of power and they would find Republicans ready to avenge it. Until then he would not embarrass the President with unnecessary inquiries.

Mr. Bayard of Delaware made an able reply, but it was more suited to a season of tranquillity than to a period of internecine war. He held it to be a dangerous doctrine that because the President's intentions were honest, therefore his acts were not to be questioned. Yet he admitted there might be cases when such arrests were justifiable, and that there was a difference in these questions when arising under a civil war more than under a foreign war.

In the course of the debate, Mr. Trumbull expressed his opposition to arrests made contrary to law, and desired to have a bill passed to meet such cases. On the other hand, Mr. Collamer, a great lawyer and a wise and careful statesman, evidently agreed with Mr. Fessenden. On December 16 the resolution was laid on the table by a vote of twenty-nine to thirteen, and never came up again.

CHAPTER VI

SECRETARY OF THE TREASURY

1864-1865

It is difficult to understand the embarrassments and perplexities which surrounded the Treasury when Mr. Fessenden became secretary in July, 1864. The war was still going on. The public debt was over \$1,740,000,000. The country was suffering from an inflated currency. In addition to \$600,000,000 of irredeemable paper money, the Treasury had issued \$161,000,000 of certificates of indebtedness, which were at a discount, thus lowering the value of all government bonds. There were \$91,000,000 of suspended requisitions and \$17,000,000 in the Treasury to meet them. A loan of \$32,000,000 offered by Secretary Chase in June had been withdrawn, as the bids were too low to be accepted. The daily requirements were \$3,000,000. The army and navy had not been paid for months. Gold was at 225. The armies of Grant and Sherman were stopped before Richmond and Atlanta for want of money. Mr. George Harrington, the assistant secretary of the department, declared that the condition of the Treasury in July, 1864, was a thousand times worse than under Hamilton or Chase.

Expecting an early termination of the war, Secretary Chase had made numerous issues of currency and temporary forms of borrowing. One half of the public debt was of this character. With a debt of \$1,740,000,000, only \$817,000,000 thereof consisting of loans, and more than \$100,000,000 of the last falling due in October, obtaining

money by issues of currency could no longer be resorted to with safety. Mr. Fessenden refused to increase the currency. "If the public credit is to be preserved, the Treasury must obtain means by the sale of bonds." The 30th of June, 1864, found the debt over \$1,740,000,000 as against \$1,096,000,000 a year before. The increase was nearly \$650,000,000, but of this only \$264,000,000 were of the funded debt. Not being able to dispose of his ten-forty bonds, the former secretary had resorted to temporary forms of borrowing, like one and two year Treasury notes, certificates of indebtedness, and temporary loans, to supply the wants of the Treasury. The one and two year Treasury notes had added to the inflation of the currency. So great was the need of money by the department early in 1864 that Secretary Chase sold \$43,000,000 five-twenty bonds under the discretionary power conferred by the act of March 3, 1863, and a few days before he resigned offered \$32,000,000 of the same class of bonds, which were withdrawn from the market for want of acceptable bids.

The danger to the Treasury and the difficulties of raising money were increased by the great rise in gold. Gold at once commanded a small premium after the suspension of specie payments in December, 1861. By January, 1862, the premium had risen to three per cent. During 1863 it rose to $72\frac{1}{2}$ on the 25th of February. In 1864 it began at 52 in January, rose to 88 on the 14th day of April, and fell to 67 on the 29th day of that month. After the passage of the gold bill in June, a bill which made speculations in gold a penal offense, it rose to 130, and on July 1, upon the announcement of Mr. Chase's resignation, it shot up to 185, though upon the news of Mr. Fessenden's appointment the next day it fell off to 125. The rise in the price of gold, accompanied as it was by

the deluge of paper money, caused an enormous rise in prices; so that in 1864, when the inflation of the currency had reached its greatest expansion, when the armies under Grant and Sherman seemed to be melting away in bloody and indecisive struggles, and the vast preparations of the government seemed to produce no result, the speculators in gold who were unfriendly to the cause of the Union made frantic efforts to force up the premium. Gold rose to an alarming height, and the prices of the necessities of life and supplies for the army rose accordingly. It was the darkest hour of the war. Despondency was settling down upon the nation and every home was in mourning. Mr. Chase's resignation came like the loss of a great battle to deepen the gloom. The President at once appointed ex-Governor Tod of Ohio, who promptly declined.

Mr. Fessenden felt the deepest anxiety that a successor should be appointed to Mr. Chase who would command the confidence of the financial world. As chairman of the finance committee and as the friend of Mr. Chase, he was more familiar with the national finances than anybody except Mr. Chase, and he called upon the President to recommend the appointment of Mr. Hugh McCulloch. This was on the morning of July 1, 1864. The President had just prepared Mr. Fessenden's nomination as Secretary of the Treasury, and upon delivering it to his secretary, the latter said that Mr. Fessenden was in the anteroom waiting to see him. The incident is thus related by President Lincoln's biographers: "The President answered, 'Start at once for the Senate and then let Fessenden come in.' The senator began immediately to discuss the question of the vacant place in the Treasury, suggesting the name of Mr. McCulloch. The President listened to him for a moment with a smile of amusement,

and then told him that he had already sent *his* nomination to the Senate. Mr. Fessenden sprang to his feet, exclaiming: 'You must withdraw it, I cannot accept.' 'If you decline it,' said the President, 'you must do it in open day, for I shall not recall the nomination.' 'We talked about it for some time,' said the President, 'and he went away less decided in his refusal.' "

But the President was mistaken in his idea that Mr. Fessenden was less determined to decline the office. The senator believed that in his enfeebled condition of health he could not perform the task. On leaving the President he went directly to the Senate, only to find that his nomination had preceded him and that he had been instantly and unanimously confirmed. Directly after the reading of the journal of that body the message was received from the President. It was opened by the presiding officer *pro tem*. Several senators immediately came up and looked at it, when Mr. Grimes moved that the Senate go into executive session. The motion was adopted. The Senate did not remain in executive session more than two minutes, when the doors were opened and it was announced that the nomination of Mr. Fessenden as Secretary of the Treasury had been confirmed.

Throughout the previous week Mr. Fessenden had been at the Capitol from nine o'clock in the morning to eleven at night. His own condition and the events of the day are described by himself in a subsequent letter to his friend, ex-Chief Justice Tenney of Maine, explaining why he accepted the post.

"For a few days preceding the close of the last session I found myself so worn down with fatigue that I was compelled to confine myself to the committee-room except when my presence was absolutely necessary in the chamber to conduct affairs emanating from my committee.

“In this state of things, some two or three days before the adjournment, Mr. Chase resigned the Treasury, and without consulting me the President saw fit to nominate me as his successor. My nomination was sent to the Senate and unanimously confirmed at once, before I reached the chamber. I went directly to my room and commenced writing a letter declining to accept the place. My reasons were that I did not wish to leave the Senate, had no fancy for an executive office, and considered myself physically unable to discharge its duties. I was utterly exhausted by hard work and rest was absolutely essential. In fact, I had no idea I could continue in office for a month if I accepted it. Before this letter was finished, however, I was waited upon by delegations from all parties in the House, urging me to accept, visited by almost every member of the Senate expressing the same desire, and received telegrams from many quarters to the same effect, from chambers of commerce and individuals. Convinced, however, that I could only accept at the risk of my life, I still resolved to decline, and called at the President's about ten in the evening, with a letter to that effect. He, however, had retired, and I left word that I would call again in the morning. I accordingly did so, and told him that I had a letter for him which I deemed it most respectful to present in person. He said that if it was a letter declining to accept the Treasury, he would not receive it. Much conversation followed, which it is unnecessary to repeat. Much of it consisted of personal appeals to my sense of duty, and expressions of belief that there was no other man with whom the country would be satisfied. He said the crisis was such as demanded any sacrifice, even life itself; that Providence had never deserted him or the country, and that his choice of me was a special proof that Providence would

not desert him. All this and more. Failing, however, to convince me, he requested, as a favor, that I would let the matter stand until after Congress adjourned, in order that, as it would then be a vacancy occurring in the recess, he might have a chance to fill it more deliberately. To this I, of course, assented.

“After this interview and before Congress adjourned I became convinced that I could not decline but at the risk of danger to the country. From my position as chairman of the finance committee it was believed that I knew more than most men of our financial condition. The money market was excited and feverish. We had had no successes in the field, public confidence was wavering, and if I refused to accept the Treasury it would be imputed to anything but the true cause. Everybody apprehended a financial crash as the consequence of my refusal, and such an event would be most disastrous. Under these circumstances, I did not dare to hesitate longer, whatever might be the consequences. Foreseeing nothing but entire prostration of my physical powers, and feeling that to take the Treasury in its then exhausted condition would probably result in destroying what little reputation I had, it was still my duty to hazard both life and reputation if by so doing I could avert a crisis so imminent. I consented, therefore, to make the sacrifice, having, however, a clear understanding with the President that I might retire when I could do so without public injury, and openly declaring that I hoped to return to the Senate when the public exigency which called upon me to leave it no longer existed.”

The letter to President Lincoln referred to in Judge Tenney's letter is among Mr. Fessenden's papers, and is as follows: —

WASHINGTON, July 2, 1864.

TO ABRAHAM LINCOLN, President.

Sir, — After much anxious, not to say painful, reflection, I feel compelled to decline the appointment of Secretary of the Treasury, conferred upon me yesterday.

Thoroughly exhausted by the labors of the session, and convinced by past experience, as well as by medical opinion, that I have reached a point where my physical powers, already much impaired, can only be restored and sustained by a period of absolute repose, I feel that to undertake, at this time, the duties and responsibilities of an office involving labor and interests so vast, would be an act of folly on my part, and certain to result in speedy failure.

Allow me, sir, to thank you for the good opinion expressed by an appointment so honorable, and to assure you of my sincere regret that I am unable to comply with your wishes. I remain, with great respect and regard,

Your friend and servant,

W. P. FESSENDEN.

The following telegram was received at Washington, 5 P. M., July 2, 1864, (24) from Cincinnati, July 2, 1864, being among Mr. Fessenden's papers : —

HON. A. LINCOLN, Presdt. U. S.

Dear Sir, — I have the honor to transmit the accompanying resolution which was unanimously adopted by the Cincinnati Chamber of Commerce, this day : "Resolved, that the Cincinnati Chamber of Commerce hails with satisfaction the nomination of Hon. Wm. Pitt Fessenden to the secretaryship of the Treasury and hope that his high sense of duty and patriotic impulse will induce him to accept the position.

GEO. W. DAVID, Prest.

This telegram is indorsed on the back as follows: —

“ 572 — The within comes to me spontaneously, which I think fit to send to Mr. Fessenden. A. LINCOLN. July 2, 1864.”

To his cousin Mr. Fessenden wrote on the next day: —

“ You must submit to a severe disappointment — not, however, I hope, so severe as mine. Day before yesterday was one of the most miserable of my life. The President insisted upon appointing me Secretary of the Treasury against my consent and positive refusal to accept it. He coolly told me that the country required the sacrifice, and I must take the responsibility. On reaching the Senate, being a little late, I found the nomination sent in and confirmed. I went at once to my room, and commenced writing a letter declining to accept the office, but, though, I stayed there until after 5 P. M., I found no opportunity to finish it — being overrun with people, members and delegations appealing to me to ‘ save the country.’ Telegrams came pouring in from all quarters to the same effect, with messages from the President. About ten o’clock I had been able to finish my letter, and went to deliver it in person, but the President was in bed asleep. I left a message for him, and called again in the morning. He then refused to accept any letter declining the appointment, saying that Providence had pointed out the man for the crisis, none other could be found, and I had no right to decline. All this I could and should have withstood, but the indications and appearances from all quarters that my refusal would produce a disastrous effect upon public credit, already tottering, and thus perhaps paralyze us at the most critical juncture in our affairs, was too much for me. I felt much as Stanton said, ‘ You can no more refuse than your son could have refused to attack Monett’s Bluff, and you cannot look him in the face if you do.’

I told him it would kill me, and he replied, 'Very well, you cannot die better than in trying to save your country.' "

Mr. Fessenden passed the entire day receiving delegations and individuals who urged upon him to accept the Treasury. Telegrams and letters poured in upon him from all sources, boards of trade, chambers of commerce, bankers, statesmen, and public officials, appealing to him with irresistible voices to accept the charge of the public finances. The head of the New York Clearing House telegraphed, "For your country's sake I beg you to accept the charge; your nomination is universally approved." The Boston Clearing House committee telegraphed that they rejoiced in his appointment and believed the interests of the country would be essentially promoted by his acceptance. Another telegraphed that the salvation of the country hung upon his decision, and the universal demand of men of all stations required his acceptance. From the stock exchange, the market, and the banks came entreating messages which told him more plainly than individual appeals of the good effect his nomination had upon the country, and the danger if he refused the appointment. At the first report that he was to be secretary, government bonds advanced, pork declined ten dollars a barrel, and all provisions declined in price. Gold opened at 250, being thirty per cent lower than the highest figure of the day before, and fell to 220. A rumor that he had declined the office caused gold to again advance 25 per cent. "Men went about with smiling faces at the news of his appointment as if a great victory had been won, and shook hands with the greatest enthusiasm."

These friends urged him to accept more fully by letter: Chief Justice John M. Read of Pennsylvania, A. T. Stewart, George S. Coe of New York, and others. An

eminent merchant in Louisville begged him "for God's sake and the sake of our poor country, accept. Nothing else will restore confidence; you have no idea of the confidence the public has in your ability." A noted financial friend wrote that his nomination had lighted a bonfire in the hearts of the people which would be quenched if he declined to accept. S. A. Purviance of Pittsburgh, an old congressional friend, informed him that the simple announcement on the bulletin board had brightened thousands of faces with renewed confidence.

Senator Grimes, realizing Mr. Fessenden's serious physical debility and the desperate emergency which he was called upon to surmount, wrote him a letter full of affection and solicitude.

PHILADELPHIA, July 3, 1864.

I left Washington yesterday morning, as I told you I should. I have experienced twenty-six moody and melancholy hours. You have at no time been separated from my thoughts since I left you. I have tried to picture to myself what would be the effect of your change of position upon the country, upon yourself, and upon our relations to each other.

I need not tell you that for six years I have been drawn toward you by an invisible power, magnetic it may be, that I could never resist, even had I desired to resist it. During the time I have been in the Senate you have exercised an influence over my wayward nature such as was never exercised by any human being except my wife. At times I have been irritated with you, but I can truly say that I never suffered the sun to go down upon my anger. If at any such moment of my weakness I ever gave you a pang of painful feeling, I now most sincerely crave your pardon, begging you to remember that the recollection of

any and every intemperate declaration of mine gives me more sorrow than it can possibly give to you.

Now our relations are to be changed. I had hoped that so long as I remained in the Senate we were to be associated together. It is ordered otherwise, and I trust for the good of the country. You are to have new surroundings, new associations, and doubtless our old friendship will be in a measure forgotten; I trust not destroyed. It fills me with grief to think that this must in the very nature of things be so.

You know what I thought of your going into the Cabinet. If you would not deem it offensive to say so, I would say that I really pitied you when I saw you last. I saw at a glance your true situation. I knew that you had feeble health, that the Treasury is in a terrible condition, and that the result of your acceptance of office might be your death. At the same time I believed no name would give one half so much confidence to the country as yours, and I knew that your declination by every enemy of the country would be ascribed not to its true cause, your poor health, but to the fact that you knew too well the condition of the Treasury Department to accept the portfolio. In this condition of things I did not feel like urging you to either accept or decline, but contented myself with recommending you to make such terms as would prevent you from being slandered and backbitten out of the Cabinet in a few weeks by your associates. What is to be the issue in that regard I do not know. You are, or were, when I left, master of the situation, and in my opinion would fix your own terms.

Now let me give you one word of parting advice, and I will never assume to do it again.

Get rid of Mr. Chase's agents as soon as possible. I believe many of them are corrupt, but whether they be

so or not they are thought to be, and that is a sufficient reason for supplanting them with new men. One or two men who enjoy your confidence now I believe to be tricksters, but you will find them out soon enough. Do not send abroad to negotiate a loan, but throw yourself upon the people of this country. Read the "Evening Post" of yesterday and see what was the demand for United States securities in New York. In the present flush of confidence you can put your loan upon the American market, and do as you wish.

And now, my dear Fessenden, I start for my rustic home on the bank of the Mississippi. If there be an angel on earth, there is one there who prays as devoutly night and morning for your success and welfare as she does for mine. I dare not trust myself to read this letter for fear I would destroy it. I do not expect you to spare the time to answer it. May God give you health and happiness, and to the country peace and safety!

Mr. Fessenden yielded. The danger of a financial breakdown was so threatening that he felt he must risk his health, his life, and even his reputation, in the effort to sustain the public credit. Mr. Lincoln gave him a written assurance of his sincere desire not only to advance the public interest by giving him complete control of the department, but also to make the position agreeable to him.

Among Senator Fessenden's papers is a memorandum in President Lincoln's handwriting, as follows:—

EXECUTIVE MANSION, WASHINGTON, July 4, 1864.

I have to-day said to Hon. W. P. Fessenden, on his assuming the office of Secretary of the Treasury, that I will keep no person in office in his department, against his express will, so long as I choose to continue him; and he has said to me, that in filling vacancies he will strive to

give his willing consent to my wishes in cases when I may let him know that I have such wishes. It is, and will be, my sincere desire, not only to advance the public interest, by giving him complete control of the department, but also to make his position agreeable to him.

In Cabinet my view is that in questions affecting the whole country there should be full and frequent consultations, and that nothing should be done particularly affecting any department without consultation with the head of that department.

But flattering as the circumstances were, the appointment brought Mr. Fessenden only weariness. He wrote:—

“I am so intensely occupied that what with the fatigues of the day and my general worn-out condition, I find neither time nor strength for writing letters. Yours are always most welcome, and I rejoice to hear that you are doing well and gaining rapidly.

“I sigh for State Street, a snuff of salt air, and a good long talk. They would be worth all the secretaryships in Christendom. How poor these things look when one grows old and has them in possession! At thirty I might have felt some pride in the place, but now it is only an annoyance, even when accompanied by popular favor. My days are devoted to hard work, and I find many things to harass and perplex me. I could, however, do well enough but for the trouble in my head and the constant feeling of fatigue. But I do not feel like complaining when I think of Frank’s amputated limb, or the many thousands of glorious fellows who bear wounds and suffering patiently and cheerfully because their country demands the sacrifice. All I can do and bear is trifling in comparison.”

He writes home:—

“The result is I must stay. I hope not long. To-day

I am the most popular man in my country, and in three months hence, if I live, I may be probably sneered at as Mr. Chase is sneered at by those who lauded him last week.

“It was not only with extreme reluctance, but with great pain, that I consented to take the Treasury. I do so under the worst circumstances possible, in every particular, and when I have little strength left for labor of any kind. But I could not resist the appeals to try to save our sinking credit—upon which the success of our cause depended. It was most unfortunate for me that just at the moment I was believed to possess the confidence of the country to an extent which imposed this effort upon me. Under this state of things and in an hour of peril, I did not dare to refuse, whatever might be the consequences to myself. It may result in the destruction of all the reputation I have gained. Be it so—I owe that to my country as well as my life.”

The month of July was the gloomiest period of the war. A large Confederate force under Early had moved down the Shenandoah Valley and was advancing with great speed on the city of Washington. Having overthrown General Wallace on the Monocacy, the Confederates pushed forward, and on July 11 were approaching the almost empty fortifications to the north of the Capitol, when the Sixth Corps, hastily sent by Grant, and only landed that morning, entered the works and compelled Early to retreat.

But for several days the communications between the capital and the North were interrupted. At this time Horace Greeley, who had lost heart in the struggle, was deceived by certain emissaries of the Confederate government into a self-imposed mission to make peace. He wrote to the President that “our bleeding, bankrupt, almost dying country longed for peace, and shuddered at the prospect of fresh conscriptions, of further wholesale

devastations, and of new rivers of human blood." He said there was a widespread conviction that the government and its prominent supporters were not anxious for peace, and that its failure to improve proffered opportunities to achieve it was doing great harm, and would do far greater at the approaching elections." The peace mission proved to be a trick to affect the elections and injure the administration.

Badeau in his history of Grant vividly describes the situation: "Until the fall of Atlanta the gloom at the North was overshadowing. Soldiers alone saw the definite progress made towards the end. The "New York Tribune," the great loyal newspaper at the North, openly advocated concession. The Secretary of the Treasury resigned his place in the Cabinet, gold was sold in the market at 285 or a premium of 185 per cent, and during Early's raid not a man responded to the President's call for militia. The disunion party belittled our successes and magnified our losses in order to depress the spirit of the North. They stimulated the South in its resistance, they invited foreign sympathizers to active interference, and did their best to hinder recruiting, to withhold supplies, to damage the financial credit of the country, and to discourage the armies in the field."

The approach of the presidential election stimulated the peace party to greater efforts. The Confederate leaders believed that if they could hold out till the November election they would encourage their friends in the North. Even President Lincoln at this time believed the elections would go against the government. It was not till McClellan accepted the Democratic nomination upon a platform which declared the war a failure that the tide turned in favor of the administration.

The raid on the capital at the moment when the new

Secretary of the Treasury was acquainting himself with the affairs of the department increased the financial discouragement, and furnished the occasion for the gold conspirators to again force up the price of gold. The people could not understand the relation of the speculation in gold to the Confederate cause. They did not see that one of the strongest instruments of Confederate aggression was the attack in Wall Street upon the Treasury by raising the price of gold. The natural depreciation of the currency was thus profoundly aggravated. During the week of Early's advance on the capital, from the 5th to the 12th of July, the price of gold advanced each day until the 11th, when it reached 285, the highest point it had ever attained. It remained above 250 till the end of August, fell below 250 after the fall of Atlanta, below 225 after Sheridan's victory at Winchester, and in October dropped below 200.

On assuming the Treasury on the 5th of July, Mr. Fessenden directed to be prepared a statement of the public debt as of that day. This statement showed the grand total to be \$1,792,867,040.57. Of this vast sum only \$756,158,738.45 was in the shape of permanent or funded debt. The remaining part of the debt, amounting to more than \$1,000,000,000, was made up of the seven-thirties of 1861 soon coming due, the legal tenders, fractional currency, temporary loans, certificates of indebtedness, one and two years notes, and compound interest notes. The items of the permanent debt were as follows:—

Funded debt contracted prior to March, 1861 . . .	\$66,930,591.80
Five-twenty bonds, Act of Feb. 25, 1862	510,756,900.00
Six per cent bonds, Acts of July 17 and August	
5, 1861	85,191,050.00
Ten-forty bonds, Act of March 3, 1864	73,464,200.00
Six per cent bonds, Act of March 3, 1864 . . .	19,816,096.65
Total	\$756,158,838.45

The remainder of the debt, and constituting the largest part of it, was made up of the following items:—

Seven-thirties, Act of July 17, 1861	\$104,808,300.00
Temporary loan at 4 per cent	661,574.49
Temporary loan at 5 per cent	6,274,863.47
Temporary loan at 6 per cent	65,378,508.64
Certificates of indebtedness	161,796,000.00
Five per cent one-year notes	44,520,000.00
Five per cent two-year notes	16,480,000.00
Five per cent two-year notes	87,808,600.00
Six per cent three-year notes with compound interest	15,000,000.00
Debt on which interest had ceased	370,170.09
Legal tenders	431,178,670.00
Fractional currency	22,430,533.10
Unpaid requisitions	91,814,000.00
Total	\$1,048,521,219.79

This amount would be slightly reduced by the sum of \$12,000,000 cash in the Treasury.

The magnitude of the public debt in July, 1864, was not its worst feature. Much of it was of a temporary character and was about to become due. To ascertain the precise condition of the Treasury the secretary first asked for the following information:—

What were the matured and daily maturing obligations which must be paid?

What were the daily expenditures?

What was the total of government liabilities matured and maturing before October 1?

The answer to the first inquiry embraced the items of daily maturing public debt and the suspended requisitions for money. According to the statement already given, these items on the 5th of July amounted to more than \$582,000,000 and were as follows:—

Temporary loan payable after ten days' notice . . .	\$72,314,946.00
One and two year five per cent notes	148,808,600.00
Bonds and other debts not presented	2,524,170.00
Seven-thirty bonds with optional demand for bonds or payment	104,808,300.00
Unpaid requisitions	91,814,000.00
Certificates of indebtedness daily maturing, amount- ing for the year to	161,796,000.00
Total,	<u>\$582,066,016.00</u>

The certificates of indebtedness were issued to creditors when the government was unable to pay them. They bore interest for one year, after which they became payable. They were coming due at about the amount of a half million a day, and increased by so much the daily expenditures. These must, of course, be paid, and at the same time the pressure for money to repay the suspended requisitions was increasing. Nearly ninety-two millions of the latter were waiting for payment on the 5th of July.

Having ascertained the amount of the matured and daily maturing obligations, the secretary next inquired:

What were the daily expenditures, and what was the aggregate of government liabilities matured and maturing within the quarter?

The estimates made in the Treasury in the preceding November were upon the basis of an average daily expenditure of \$2,000,000. This for ninety days would amount to an expenditure of . . . \$180,000,000.00

To which must be added the matur-
ing certificates, averaging each
day \$450,000, making for ninety
days a total of 40,500,000.00

Which sums must be increased by
the suspended requisitions . . . 91,814,000.00

Making a total of \$312,314,000.00
which amount must be obtained before October 1, besides

the contingent liabilities presented by the seven-thirties of 1861, and other matured and maturing debts. Or adding to \$421,000,000 of matured and maturing liabilities the probable expenditures for the coming ninety days of \$220,000,000 more, there appears \$640,000,000 which the Treasury might be called upon to meet before October 1.

But if the financial outlook should become promising, much of this great sum would not require payment. Yet there still remained the large sum of \$312,000,000 which must be provided for, with a contingent liability of a demand for the payment of the temporary loan and the seven-thirties, amounting to more than \$175,000,000 additional, if the aspect of the public affairs continued unfavorable.

The next question was, What were the means with which these liabilities were to be met? The liabilities of a government are not formidable if it has ample resources with which to meet them. But the answer to the Treasury in the summer of 1864 threatened bankruptcy. The estimated revenue for the quarter was only \$51,000,000, or a daily average of \$556,000, scarcely more than enough to meet the maturing certificates of indebtedness alone. Leaving out of view the possible demands from the temporary debt, the Treasury must raise from loans within the quarter \$261,000,000, of which \$100,000,000 were required forthwith. There were several former acts under which money might be obtained, as the loans authorized by them had not been entirely issued. Experience had shown that some change of form was desirable.

Secretary Fessenden thought it unwise to make any public announcement of a fixed policy. There was a great outcry for a policy. He declared, however, to confidential Treasury officials:—

First. That he would avoid, if possible, a further increase of the currency.

Second. That all temporary obligations then outstanding should, at the earliest practicable moment, be paid or consolidated.

Third. That the current liabilities should, if possible, be met with current receipts and from loans obtained for such length of time as would avoid the necessity of again providing for them during the continuance of hostilities.

Fourth. That the views and policy of his predecessor in relation to the permanent public debt, though engendering, perhaps, for the moment, greater perplexities and annoyances to the secretary, must be adhered to and would be fully justified in the future when the war should have ceased, and the question of the public debt became, as it necessarily must become, one of absorbing public interest. That the reserved power of reducing from time to time the rate of interest thereon as the credit of the country and circumstances might permit, without injuriously affecting the credit of the government, would then be found invaluable, while the value of the further reserved right of paying the debt, or any portion thereof, before maturity at par (the redemption in anticipation of our previous debt having involved a premium of fifteen to twenty-two per cent in purchases at market rates), could only be calculated when the aggregate of the debt should become fixed and fully known. (Harrington.)

In commenting upon the situation of the Treasury at this time, Assistant Secretary Harrington says: "There were radical vices in the existing financial system of which the country reaped the fruits in a depreciated currency and an exceptional costliness of all the necessities of life, as well as a tendency to unhealthy speculations which afterward drew the country toward ruin and bankruptcy.

The unrestrained emissions of paper money and other temporary expedients to which recourse had been had to meet the demands upon the Treasury, had passed all limits of prudence. This excess made the duty of the secretary more difficult, as he had found himself compelled to provide for the accumulated demands of the past added to the running expenditure of nearly three millions of dollars a day."

Accordingly Mr. Fessenden resolved that there should be no further increase of the currency, and to this resolution he adhered with undeviating firmness. There is in public finance no measure so difficult as to stop the further issue of paper money in a time of distress and danger, when a nation is already suffering from the evils of an inflated currency. Business becomes adjusted to it, and, like one accustomed to a stimulant, an increase is continually demanded. Hence at this time a large and powerful part of the financial world was clamoring for more currency. It was sustained by many influential newspapers. It was boldly argued that the only way to solve the financial problem was to issue legal tenders equal to the current expenditures of the government, and to make these "greenbacks" convertible at all times into six per cent bonds of the United States. But it was evident to sound financiers that the Treasury had long since passed the limit of safety in its issues of paper money. With gold at 285, and with prices of the necessities of life at an advance of two or three hundred per cent, it was plain that no increase of United States currency should be issued except as a last resort. But the pressure upon the secretary was overwhelming. Demands upon the Treasury were daily increasing. The unfortunate but deserving creditors of the government who implored for at least part payment of their claims were firmly but courteously

refused when such payment required an increase of the currency. The advice of some of the highest officials in the department could not shake the secretary's determination. With all the enormous demands upon the Treasury, the currency was not increased a single dollar during Mr. Fessenden's administration. The figures given him on the 5th of July represented the volume of the currency when he left the department.

While the secretary could refuse to increase the currency, he had not the same control over the certificates of indebtedness. If the government could not pay a claim that had been audited and allowed, the creditor had the right, under the laws of Congress, to receive a certificate of his debt payable in one year with interest at six per cent. These certificates drew interest and were a favorite form of temporary investment, and this interfered with the sale of other government securities. Many able financiers urged a stop in the issue of certificates if a new loan was to be offered to the people. But if the Treasury could not pay a creditor, it could not legally refuse his certificate of indebtedness, and those who were pressed for funds at once threw their certificates upon the market. The want of funds had compelled the Treasury to issue so many that by September their amount had swollen to \$247,000,000. The price fell to 91, and they were purchased in preference to the new loan. As this occurred at the most critical time, and threatened the sale of the seven-thirties, Secretary Fessenden employed an agent to buy in open market, from time to time, several millions of the certificates, to hold up the price. They constituted a formidable embarrassment at this desperate juncture. In October their price was so much below par that when the Treasury invited proposals for the purchase of \$40,000,000 of five-twenties, it gave notice that certificates would

be accepted in quarter payment of the loan, at par. This improved their price somewhat, but they still remained such a hindrance to the new loan that the secretary was obliged to resort to more arbitrary measures to save the public credit. It was evident that while this form of government debt could be issued to an amount that could be redeemed by the daily operations of the Treasury, beyond that sum the certificates would interfere with the negotiations of other government loans.

There was no obligation to the issue of compound interest notes, which were legal tender for their face value and were payable in three years. These notes had the attributes of money and the elements of permanent investment. The latter characteristic would insure their withdrawal from circulation. They could be used to a limited extent for pressing necessities of the Treasury, and they would not inflate the currency. Only \$15,000,000 had been issued. The date of payment was three years away. The secretary decided that he would continue to issue them, but only to a very limited extent. They were issued in lieu of five per cent notes which were canceled.

No assistance to the Treasury could be expected from fractional currency, temporary loans, and the one and two year five per cent notes. The temporary loans were, in the language of Assistant Secretary Harrington, worse than a deception. The greater the necessities of the Treasury, the more anxious the creditor would be for his money. The department was liable at this moment for \$72,000,000 which might be called for on ten days' notice. The five per cent notes, of which \$150,000,000 had been issued, had proved to be an inflation of the currency and an embarrassment. A portion of them had been withdrawn and replaced with three-year notes bearing six per cent interest, compounded semiannually. The total amount of inter-

est-bearing notes outstanding on November 22, 1864, was \$210,000,000. The three-year six per cent notes, compounded, which had replaced the five per cents, were rather a reduction of the currency and an improvement.

The secretary having resolved that there should be no increase of the currency and no new variety of bonds, there remained only the five-twenty gold bonds or the seven-thirty currency bonds on which to raise a loan. The public debt in bonds bearing interest in coin had already reached a point beyond which it was unsafe to go. The amount of coin interest on bonds already issued exceeded \$56,000,000 a year, while the estimate of coin receipts from the customs was not above \$70,000,000 per annum. Any large additional issue of securities bearing interest in coin would probably compel the government to buy gold at whatever might be the price. The secretary determined that no further issues of such bonds should be made except as a last resort. Yet the necessities of the Treasury were so great that during his eight months of administration he was obliged, in order to meet the most pressing exigencies, to make three different though limited sales of gold-bearing bonds. For his main reliance he decided that bonds bearing an increased rate of interest in currency redeemable in three or five years, and convertible at maturity into the five-twenty coin bonds, would be preferable to any other form of security. These would involve the smallest sacrifice. By the time they should have reached maturity, the war would probably be over, the country at peace, its population and resources increasing, and with ample ability to meet all its obligations.

But it was one thing to decide upon the most desirable form of the new bonds, and quite another thing to induce the public to buy them. The situation of the Treasury and the condition of the money market seemed to make

the prospect of placing a large loan almost hopeless. The seven-thirties of 1861 would soon mature, and the holders might demand payment rather than exchange them for new bonds. The market for securities was growing weaker every day in consequence of the constantly increasing volume of certificates of indebtedness necessarily entered. To offer a great additional amount of bonds at such a time, when all government securities were falling, would tend to a further depression in values, which would prevent the conversion of the seven-thirties of 1861 and cause a demand for an additional one hundred millions of currency.

The effective offer of a loan to the public required much preparation and considerable time, and so, to meet pressing emergencies the secretary went to New York on July 9, two days before General Early had severed communications with Washington, to confer with the New York banks upon a proposition to borrow \$50,000,000 upon a pledge of government bonds. Gold was at a premium of 280, and there was not over \$10,000,000 of currency in the banks. The law declared that the secretary should receive only lawful money (currency). It was so worded that even gold could not be received under the terms of the act. The banks offered to give the Treasury a credit of \$50,000,000 on their books on which the department could draw checks. But the law required currency, and this the banks did not have. The banks held a meeting and in substance resolved, —

First. That they had made this effort to prevent the further issue of paper money and to strengthen the financial power of the government. That the banks would either advance \$50,000,000 to be repaid from the sales of bonds to be made by the banks, or purchase direct that amount.

Second. That the secretary had shown an appreciation of the value of the services of the banks, and had desired to avail himself of their aid, but felt restrained by the law which prevented him from drawing checks on the banks, even for money loaned to the government. That the banks had been impressed with the high moral integrity of the secretary, and unanimously commended the wisdom of the President in selecting for a secretary, at this crisis, a statesman possessing in so eminent a degree the confidence of the people.

The secretary remained in New York for several days, occupied with the financial difficulties pressing upon the government.

Having failed to obtain the loan from the banks, the secretary had no other alternative than to issue legal tender notes to a very large amount, or again to advertise a loan. He was reluctant to do the former.

He wrote home July 17, 1864, about his New York visit:—

“My mission there was to borrow some money, in which I failed, not from any want of will, but from inability. They offered to lend me their credit, but this I saw no way to use. The result is I must appeal to the people, and you must be ready to lend me all your spare cash. I shall advertise in a day or two. When I can get things fairly under way, so that the government can go along, I shall come home for a few days—long enough to look after my private affairs and spend one day at Prout’s Neck.”

Immediately upon his return to Washington he appealed to the people for a loan, and ordered the preparation at once of the plates for the new bonds, which was a work of considerable time. On the 25th of July he published proposals for a national loan under the act of

June 30, 1864, upon bonds payable in three years with semiannual interest at seven and three tenths per cent per annum in currency. These bonds were to be convertible after three years into five-twenty six per cent bonds, of which principal and interest were to be paid in coin. Accompanying the proposal was an appeal to the people in which the secretary frankly stated the situation and needs of the Treasury. The appeal said:—

“Up to the present moment you have readily and cheerfully afforded the means necessary to support this government in this protracted struggle. It is your war. You proclaimed it and you have sustained it against traitors everywhere, with a patriotic devotion unsurpassed in this world’s history. The securities offered are such as should command your ready confidence. Much effort has been made to shake the public faith in our national credit, both at home and abroad. As yet we have asked no foreign aid. Calm and self-reliant, our own means have thus far proved adequate to our wants, and they are yet ample to meet those of the present and future. It still remains for patriotic people to furnish the needful supply. The brave men who are fighting our battles by land and sea must be fed and clothed, and munitions of war of all kinds must be furnished or the war must endure defeat and disgrace. This is not the time for any lover of his country to inquire as to the state of the money market, or to ask whether he can invest his surplus capital so as to yield him a larger interest. No return and no profit can be desirable if followed by national dissolution and national disgrace. Personal profit thus acquired is but the forerunner of future and speedy destruction. No investment can be so surely profitable as that which tends to insure the national existence. I am encouraged in the belief that by the recent legislation of

Congress our finances may soon be placed upon a sounder and more stable footing.

"I am happy to say that the daily results are proving the internal revenue act to exceed in efficiency the most sanguine expectations of its authors. In June, 1863, it yielded about four and a half millions, while the corresponding month this year has returned about fifteen millions under the same law. Under the new law, which went into operation on the first day of the present month, the Treasury has frequently received one million a day. As time and experience enable the officers employed in collecting the revenue to enforce the strength of the provision of the new law, I trust a million a day will be found the rule and not the exception.

"Still much space is undoubtedly left for improvement in the law and its administration, as a greater amount of necessary information is acquired. The proper sources of revenue and the most effective mode of collecting it are best developed in the execution of existing laws, and I have caused measures to be initiated which will, it is believed, enable Congress so to improve and enlarge the systems as, when taken in connection with the revenue from customs and other sources, to afford ample and secure basis for national credit. Only on such a basis and in a steady and vigorous restraint upon the currency can a remedy be found for existing evils. Such a restraint can only be exercised when a government is furnished with the means to provide for its necessities. But without the aid of the patriotic people the arm of the government is powerless for this or any other desirable end. The denominations of the notes proposed to be issued ranging from fifty dollars to five thousand, places these securities within the reach of all who are disposed to aid their country. For their redemption the faith and honor

and property of the country are solemnly pledged. A successful issue to this contest is now believed to be near at hand, which will enhance their value to the holder, and peace once restored, all burdens can be lightly borne.

“He who selfishly withholds his aid in the hope of turning his available means to greater immediate profit is speculating upon his country’s misfortune, and may find that what seems to be present gain leads to future loss. I appeal, therefore, with confidence to a loyal and patriotic people, and invoke the efforts of all who love their country and desire its glorious future to aid their government in sustaining its credit and placing that credit upon a sound foundation.”

The statements in the secretary’s appeal produced a good effect upon the public credit. An improved feeling appeared on the stock boards. During the week the price of gold fell two or three points every day. The statement as to the increase of the revenue favorably affected the foreign markets. Mr. Fessenden always maintained that the only proper way to deal with the people of the United States was to tell them the plain truth with nothing withheld. One earnest and able senator wrote to the secretary warmly praising the appeal, and telling him to follow his own convictions, and if it led him to perdition, he would go with him.

Writing home July 24, 1864, Mr. Fessenden said :—

“So far as the Cabinet is concerned, I find my position well enough, as they all treat me with entire respect. Indeed, they all, including the President, know well enough that I am of much more consequence to them than they are to me. God knows that I have no private ends to accomplish, and I can, therefore, well afford to be personally independent of everything except my duty.”

Wishing the loan to be diffused as widely as possible,

and to be well understood among the people, the secretary incurred a considerable expense in advertising it, and offered liberal inducements to stimulate the efforts of corporations and individuals to dispose of the bonds. The sales were much less than he hoped. There were some patriotic subscriptions by a few institutions and individuals, but notwithstanding every effort, the combined receipts from all sources were not sufficient to prevent the suspended requisitions from reaching in September the amount of \$247,000,000.

In truth, the moment for floating a great loan seemed most inauspicious. The greatest obstacle to successfully disposing of the new bonds was the large amount of other desirable national securities pressing upon the market, and presenting more favorable opportunities for investment.

After the secretary had advertised the loan and arranged the immediate affairs of the department, he went to his home in Portland. While absent from Washington, he was kept informed of the affairs of the Treasury by Mr. Harrington. Mr. Harrington advised that the five-twenties be placed in discreet hands for sale in the German market. Otherwise the ten-forties should be pushed. On the 11th of August the sales of the seven-thirties were only \$421,200. The next day they rose to \$761,000. At this time the comptroller wrote that "with eighty-one millions of suspended requisitions, a large amount of certificates of indebtedness constantly maturing, and a daily expenditure of two and a half millions, not enough would be received from the sales of the ten-forties and seven-thirties." He was of the opinion that the secretary must also get rid of all temporary loans and short time securities.

Writing home, Mr. Fessenden said: "I expect to do

something in a few days which will raise an outcry against my want of skill, but something must be done. Oh, for a great victory! What a financial operation it would be! General Grant does not seem to get ahead much, but if the people hold out we are safe, for all accounts agree that the rebels are about used up. Everything will depend very much upon the result of the elections. If we carry them the war is substantially over. If not, all is over with us. I wish our people could be made to comprehend this.

"If I could only feel easy about the money affairs and get the cotton business in good shape, the other matters would come along easy enough. These, however, are my stumbling blocks. The first bring down upon me all the stock-jobbers and speculators, and the last all the thieves. Between them all I suffer a thousand daily annoyances. The President is too busy looking after the elections to think of anything else. I am glad it is so, for the less he interferes in other matters the better for all concerned. Yet he is a man of decided intellect and a good fellow, able to do well any one thing if he was able or content to confine his attention to that thing until it was done. In attempting to do too many things he botches them all."

No one thing in the department caused so much perplexity and annoyance to the secretary as the cotton business.

The acts of Congress which gave to the Treasury the control of the trade between the loyal and insurgent States imposed great responsibilities upon the department. The earliest act was passed in July, 1861. It declared all commercial intercourse between the citizens of the insurgent States and the rest of the Union to be unlawful while hostilities continued, but it authorized the

President to permit it when he thought it conducive to the public interests. Such intercourse was to be carried on under regulations prepared by the Secretary of the Treasury. This act applied to the laws of war which govern trade in those districts where a state of war exists, and Mr. Chase at once issued regulations under which commercial intercourse was to be permitted. The powers of the Treasury Department were further enlarged by the acts of May 20, 1862, and March 12, 1863.

The troubles arising from the lawful trade were increased by those of the unlawful trade that was carried on with unscrupulous energy and boldness. The enormous advance in the prices of cotton and tobacco and the certainty of great gains in trading in such property stimulated a multitude of unprincipled speculators to engage in the business in violation of law. Cotton had risen from ten cents a pound in 1860 to one dollar and twenty cents a pound in 1864. Cotton speculators infested the armies and corrupted military and civil officers. They furnished not only supplies to the enemy, but information which thwarted movements that might interfere with their cotton operations. General Canby declared, in 1864, that the rebel armies had been largely supported by this unlawful traffic. General Grant wrote to Secretary Chase that, in his opinion, any trade with the rebellious States weakened the government at least thirty-three per cent. It was made the means of supplying the enemy. In his *Life of Chase*, Shuckers states that the surreptitious traffic during the war probably amounted to \$200,000,000. The situation of the people in the districts ravaged by war seemed to require some trade. The results of such trade were no better under military than under civil control.

The internal revenue laws, with their numerous pro-

visions, had to be enforced over the States in insurrection, as their districts came under the power of the government. In September, 1863, a comprehensive set of regulations was promulgated by the Treasury, the result of a careful deliberation between the secretaries of the Treasury, War, and Navy. Under these regulations the department first began to take charge of abandoned plantations, and to exercise care for the freedmen.

When Mr. Fessenden became secretary he found a new law upon these subjects, approved July 2, 1864, in the enactment of which he had taken part. This act modified the preëxisting laws and largely extended the powers and responsibilities of the Treasury. It placed abandoned lands, houses, and tenements in the States in insurrection under the charge of the department, and authorized it to provide for the employment and general welfare of the former slaves. This wide-reaching legislation obliged Secretary Fessenden to prepare a new and extensive set of regulations governing commercial intercourse with the insurgent States and the care of the freedmen. These were prepared at once and approved by the War Department without the suggestion of an amendment.

The advantages of bringing to market the cotton of the Southern States were so valuable that the new law authorized the Treasury to purchase it under certain specified circumstances. The secretary prepared a series of regulations for this business also, and appointed agents to commence operations. He was subsequently gratified to find that all the expenses for executing these acts for commercial intercourse were much more than paid by the fees arising under the regulations adopted.

With all the difficulties of the Treasury arising from the application of the new and extensive legislation enacted by the late Congress imposing increased duties upon

imports; with the additional taxes upon all internal trade; with the care of the colored population; with the regulation of trade in the insurgent States; the seizure and sale of cotton and the innumerable claims and complaints against the department,—the great and embarrassing question remained, how to raise enough money to meet the vast expenses of the government. The receipts from all sources were hardly more than half of the current expenditures. The army had received no pay for several months. Secretary Fessenden determined that the army and navy should be paid, if means could possibly be found for that purpose. He had one resource in the issue of six per cent compound interest legal tender notes payable in three years, to the amount of the five per cent interest-bearing notes which had been withdrawn as they fell due. To that extent they would not increase the currency, and their interest-bearing feature would cause them to be withdrawn from the market for investment soon after their issue, while the date of their maturity three years later was sufficiently remote to postpone their payment till after the war. They would also be converted into five-twenty bonds, and so were permanent in character. Another resource was to pay such soldiers as chose to receive them with small bonds of the new seven-thirty loan issued in sums of ten, twenty, and fifty dollars. The bonds were a legal tender to the amount of their principal, and, bearing a high rate of interest, were a good investment. The secretary decided to offer these bonds to the soldiers, clearly explaining to them that they were not obliged to receive them and could have their pay in money if they preferred. This measure was strongly opposed by some of the best financial advisers of the government, who feared the soldiers would sell their bonds at once, thus glutting the market and competing with the

government. The secretary adhered to his plan, and the result vindicated his decision. More than twenty millions were thus loaned to the government by its own soldiers who were fighting to uphold it. The plan and its results are thus described by the secretary in his report:—

“Failing to raise the means required in the ordinary mode, and urged by the conviction that the large amount of suspended requisitions, swollen to more than \$130,000,000, should be reduced, the secretary resolved to use all means at his command to pay so much, at least, as was due to our brave soldiers, who were suffering from the long delay in satisfying their just claims, but still continuing to serve their country with unflinching courage and uncomplaining devotion. To effect this object he was compelled to replace the whole amount of five per cent notes which had been canceled, amounting to more than eighty millions of dollars, and even slightly to exceed that sum. More fully to accomplish his purpose, the secretary resolved to avail himself of a wish expressed by many officers and soldiers through the paymaster, and offered to such as desired to receive them seven-thirty-notes of small denominations. He was gratified to find that these notes were readily taken in payment to a large amount, our gallant soldiers in many instances not only receiving them with alacrity, but expressing their satisfaction at being able to aid their country by loaning money to the government. The whole amount of notes thus disposed of exceeded twenty millions of dollars, and the secretary has great satisfaction in stating his belief that the disposal thus made was not only a relief to the Treasury, but proved a benefit to the recipients in affording them a safe and valuable investment, and an easy mode of transmitting funds to their families.”

Meanwhile, with all the exertions of the secretary to

meet the suspended requisitions upon the Treasury, they steadily increased. By the middle of September these demands had swollen to \$130,000,000. The receipts from customs, from internal revenue, and from the sales of bonds were not only insufficient to prevent an increase of the suspended requisitions, but the certificates of indebtedness were assuming such alarming proportions that the secretary began to consider a method of heroic treatment for this evil which he soon after put into execution, — that of refusing to issue any more. This was contrary to law and a violation of the rights of creditors, but the condition of the public credit made it necessary. There were now \$247,000,000 afloat, and they could be purchased at 92.

Towards the last of August the necessities of the Treasury became so pressing that the secretary was compelled to put upon the market the \$32,000,000 of five-twenty six per cent gold bonds which Mr. Chase had offered just before his resignation, and which had been withdrawn from the market for want of acceptable bids. The secretary desired to rely entirely upon loans bearing interest in currency and not issue any more gold bonds; but money for the relief of the Treasury had become so indispensable that the secretary, upon the shortest possible notice, advertised for bids for the above mentioned \$32,000,000 of gold bonds. The advertisement was dated August 30, and notified bidders that their proposals would be opened on the 9th of September. The bids were unexpectedly satisfactory. More than the whole amount was bid for through the office of the assistant treasurer in New York alone.

Writing home September 11, 1864:—

“We finished opening the bids for my loan yesterday. It is a great success. Over seventy millions offered — and

the whole loan taken at four per cent and upwards. I shall try another very shortly, but this you need not repeat, as a New York broker or stock speculator would give a good deal of money to know it. My last loan was a secret until it appeared in the papers, and this shall be also.

"I hope to get through with my cotton arrangements in a few days, and then I shall have, I hope, a comparatively quiet time of it until Congress meets—provided my money arrangements work well."

In connection with this sale of \$32,000,000 of fifties, Assistant Secretary Harrington gives an interesting instance of the perplexities and annoyances to which both Mr. Chase and Mr. Fessenden were subject at every step of their negotiations. After the sale was advertised and before the opening of the bids, the question was mooted whether in payment of the loan the secretary would receive compound interest notes with accrued interest. This apparently unimportant proposition encountered the sharpest hostility from the bankers and banking officials. Many of them came to Washington to dissuade the secretary therefrom, and the mails were encumbered with written protests and arguments to the same end, while no one appeared on the other side. Nevertheless, the secretary decided to so receive them, which decision the same bankers with equal unanimity subsequently assured him nearly doubled the aggregate amount of offers that otherwise would have been made, and at considerably higher rates. This was a most important result in view of the conversion of the seven-thirties of 1861 then going on. The new loan was, in fact, taken at a premium of four per cent and upwards.

Writing about this loan he said, "To get money has been and is my great trouble, but my first proposal for a

loan by the sale of bonds has proved a success. I asked for about thirty millions and was offered over seventy—the thirty at four per cent premium and upwards. This will enable me to pay off the army in a short time, and other means and resources will, I think, enable me to get along until Congress meets. The Treasury is a laborious place, but not so hard as I expected. I feel, too, much encouraged as to our affairs generally.”

Two months later the overwhelming necessities of the Treasury again compelled the secretary to offer \$40,000,000 more of the five-twenty coin bonds, for which he had authority under the act of June 30, 1864. The bonds were advertised on the 1st of October. The money market was in a feverish condition, and serious doubts were entertained whether acceptable offers would be made. On the other hand, if not taken, there stood behind more than \$25,000,000 of the seven-thirties of 1861 yet unconverted ready to further embarrass the Treasury by an inexorable demand for currency. They must be paid, if the holders so elected, for there was no option with the government to convert this loan into other bonds. Money must be had, and the risk must be taken that the offers for \$40,000,000 of five-twenties might be less than par and thus cause a shock to public credit. Owing to the increased issue of certificates of indebtedness which were now considerably below par, the secretary decided to receive one fourth of the loan in certificates at par. This would not only restore their price, but furnish facilities for payment of subscriptions to the loan. The result was that in spite of the predicted failure of the loan bids were received to the amount of \$60,000,000 and the whole \$40,000,000 were taken above par, averaging to the government a premium of nearly one per cent. Yet so much had the certificates of indebtedness fallen in

price, that the payment of one quarter of the loan in these obligations made the cost of the bonds so low to the purchasers that they could, on the day after the loan was awarded, sell the bonds in open market at less than par. This checked the conversion of the seven-thirties of 1861 and produced a disastrous effect upon the prices of all government securities. The secretary thereupon gave intimations that no more six per cent coin bonds would be sold. Upon this assurance the market recovered and the conversion of the seven-thirties of 1861 was resumed.

It has been seen that when Mr. Fessenden became secretary an aggregate of \$400,000,000 would be required within three months. The receipts of the Treasury for the same period would not be estimated at more than \$150,000,000. By the end of September the Treasury had received \$32,000,000 from five-twenties and some \$56,000,000 from the new seven-thirties. Even if the old seven-thirties were all converted into the new bonds, the 1st of October would find the Treasury more than \$150,000,000 behind. The end of ninety days found the suspended requisitions still over \$80,000,000, and then new requisitions to a very large amount might be expected. Certificates of indebtedness had necessarily been issued to the suffering creditors until they had swollen to \$247,000,000. The consequence was the certificates fell in price, and this lowered all government securities. Notwithstanding the exertions of the secretary, by renewed appeals and the offer of larger commissions, to stimulate the sale of the new seven-thirties, the aggregate receipts from all sources were far below the requirements of the government, and the market value of all the public securities was sensibly and rapidly diminishing. "Few," says Assistant Secretary

Harrington, "outside or even inside the department either knew or appreciated the desperate condition of the Treasury. With every exertion to sell the new seven-thirties, the Treasury by the middle of September was \$200,000,000 behind. Certificates of indebtedness were selling at 92 and were a better investment than the new bonds. *Bona fide* subscriptions to the seven-thirties had nearly ceased; the six per cents were at or below par; creditors' vouchers were selling at from ten to twenty per cent discount, with a constantly declining market, while the demands for money on account of the great armies in the field and the great navies afloat were constantly augmenting, with no prospective limit thereto. The clamor for money was incessant, accompanied by imperious demands for a further issue of currency and a further unrestricted sale of bonds at whatever price might be offered."

So threatening was the situation of the Treasury in October that the secretary stopped the issue of monthly statements of the public finances in order not to excite alarm, and for reasons which he subsequently gave to the committee on ways and means, and which were by them accepted as entirely satisfactory.

By the 1st of September the sales of seven-thirties were so small, and the necessities of the Treasury were so imperative, that the secretary was induced to consider the possibility of raising money by a foreign loan. He was greatly averse to going outside of the United States, and there was danger that the customs might not furnish enough coin to pay the interest on a large loan. Nevertheless, he sounded Mr. Chase upon going abroad as agent for the Treasury in placing such a loan. The ex-secretary answered that he wished the President would first join in requesting his presence at the capital. Mr. Fessenden replied that the President had nothing to do with the matter.

Mr. Chase's requirement and the secretary's own dislike to appealing to the markets of Europe caused the latter to abandon the whole project.

It seemed to him that effecting a foreign loan would not add much, if anything, to the whole amount of sales, unless stimulated by efforts and inducements which our financial condition had not as yet called for. And although a certain advantage might be gained in the power to control in some degree the rate of foreign exchange by the deposit of a large sum to be drawn against as occasion might require, the possible benefit thence to be derived had not seemed sufficient to counterbalance other and opposing considerations.

The financial sky, which had lighted up towards the last of September, again grew dark in the month of October. Gold which had dropped to 194 rose in October to 227, and early in November reached 250. The secretary had been obliged to sell \$40,000,000 more of the six per cent coin bonds in October, but all reports agreed that no more could be sold at par. To sell at less would shake the public credit. For the purpose of influencing the approaching election, the enemies of the government were making the strongest efforts to depreciate the national securities and raise the price of gold.

By the 1st of October the total receipts for the Treasury from the sales of bonds and from the internal revenue were only \$135,000,000. With these resources the demands were \$130,000,000 more than the receipts. There had been issued \$85,000,000 more of the certificates of indebtedness, and this great addition had caused them to fall in price to ninety-two cents on the dollar. A rapid depreciation of the government bonds now set in, which threatened a panic, and could be arrested only by stopping the issue of more certificates. The immense expenditures

of the government were increasing. This, though known to the secretary, was not known to the public, and justified strong and even arbitrary measures to avert a financial crash. After a careful examination of the situation and a consultation with Mr. Harrington and Mr. Stewart, the secretary determined radically to change, and for a time at least to fix the attitude of the department before the country so far as related to the future issues of government securities. The market was overburdened with certificates of indebtedness which, being forced to sale by the suffering creditors, were constantly declining in value, carrying with them all other securities. The secretary therefore resolved to institute the following measures, and put them in force in succession should they become necessary : —

First. To suspend the further issue of certificates of indebtedness.

Second. To announce that, for the present, no more six per cent bonds would be offered for sale.

Third. To make another appeal to the national banks, private bankers, and to the people, in behalf of the seven-thirties.

Fourth. To purchase and temporarily hold all the securities that should be thrown upon the market; and if the subscriptions to the seven-thirties did not materially increase, then

Fifth. To employ other agencies to induce the people to subscribe to that loan.

The situation demanded immediate and vigorous measures, and one after another the foregoing were put in execution.

The first and most effective of the secretary's measures was stopping the further issue of the certificates of indebtedness.

The secretary then put in execution his second measure and announced that the Treasury would make no more sales of six per cent coin bonds.

Then the enemies of the government combined to put up the price of gold. A scheme was formed to force it to 300 or upwards. The plot was discovered by the vigilance of Assistant Treasurer Stewart of New York, who took energetic measures to thwart it. The idea of the conspirators was that a rise in gold would create the impression that the success of the Union ticket would lead to a prolongation of the war, higher prices, and more paper money. The plot caused much alarm in New York among the friends of the Union. Mr. Stewart thought it could be checked if he was allowed to deposit \$5,000,000 in gold in the Fourth National Bank to his credit as assistant treasurer. This was authorized by the secretary. On October 31 Mr. Stewart commenced selling gold to check its advance. Its price was then $216\frac{1}{2}$. He continued selling until it reached 227. There was no military success at this time, and the hope of the government was to keep gold steady till after election. Mr. Stewart's operations continued until November 7, when he ceased selling gold, as it could no longer influence the result. Less than \$6,000,000 were sold, but this action was successful, for it was believed that without it the price of gold would have risen to 300. While these operations in gold were going on, the copperheads in New York freely predicted that, in the event of Lincoln's election, gold would rise to 500.

Mr. Stewart, on November 7, stopped selling gold to prevent a rise, as the election was on the next day, and further sales could not affect the result. The election put an end to the rebel speculations in gold.

Early in December the secretary became convinced that

he must carry out his fifth and last resolve by employing new agents to bring the seven-thirties home to the people. Though the public securities had advanced to a point that had restored the public credit, this improved condition did not sell the bonds. The secretary's renewed appeals to the banks and the people had not been answered by subscriptions to the loan. He believed the loan could be placed among the people, and the necessity for further issues of legal tenders avoided, if the real value and advantages of the seven-thirty bonds could be presented in such a way that every citizen would understand them. Their merits must be made apparent in the smallest village as well as in the largest city. "This," says Mr. Harrington, "could not be accomplished by the Treasury Department. The Treasury could not appeal to individuals, could not enlist newspapers, could not give information to numerous forces. It had no power to combine an organization of numerous private bankers, of traveling salesmen, of daily journals, of magazines, of the religious press, furnishing them all with information concerning the bonds in an attractive form, and repeating it every few days in new and interesting shapes. And even if the department had authority to proceed in such a manner, an organization so vast would require weeks if not months of preparation, while every hour at this time was weighted with the nation's destiny."

The respect in which his opinions were held by Congress at this time is shown by Senator Sherman in a letter.

SENATE U. S., Dec. 20/64.

DEAR SIR, — What say you to the bill of the House concerning two-dollar whiskey tax on 1st of January? The bill is in that precise position when your opinion will control the matter. My impression is in favor of the

increased tax, as I fear the manufacture in January will be so enormously increased as to cut off future revenue for a long time. But the argument for "stability" is clearly against it. What had we better do?

We have not yet your report. Can't you send me by the bearer one copy?

Yours truly,

JOHN SHERMAN.

HON. W. P. FESSENDEN.

The secretary resolved to call to his assistance Mr. Jay Cooke, the able and patriotic banker who had successfully negotiated the sale of \$500,000,000 of five-twenty gold bonds in 1862-63. It was understood that Mr. Cooke could, by a touch of the telegraph, recall to life and activity the well-organized forces with which he had accomplished that work. He was the only man who had the courage and willingness to risk the large preliminary expenditures without a subsequent recourse to the government in case of failure. Mr. Cooke's services to the country during the trying period of the public finances were of the highest value. The secretary fixed his compensation at three fourths of one per cent of the first \$50,000,000, at five eighths of one per cent of the second \$50,000,000, and reserved the power to fix the compensation at such less sum as he deemed most advantageous to the government, upon the sales beyond the first \$100,000,000. For this moderate commission Mr. Cooke assumed all expenditures and liabilities in negotiating the bonds, and all risks of subscriptions. No bonds were to be delivered from the department except upon the production of certificates of deposit in the Treasury equal to the amounts called for. The first order by Mr. Cooke to his agents, made principally in regard to advertising, involved an expense to him of \$100,000. The recovery of this, as well as other large

sums, depended wholly upon successfully placing the loan among the people, and this was wholly uncertain. Disasters in the field would cause a failure, and even a want of military success would discourage subscriptions. If he were fortunate enough to dispose of the first \$100,000,000 he would be obliged to make the negotiations of further amounts upon the basis of an agreement with the secretary and perhaps at a reduced compensation.

Meanwhile torrents of advice of the most contradictory character were poured upon the department from financiers, theorists, business men, and persons of all sorts. One wanted nothing but gold bonds, another nothing but currency bonds, another wanted billions of paper, another was naïvely opposed to paying interest. One sober-minded individual advised a seven per capita tax on every one who danced. Some writers sent their opinions to the President, and asked him to enforce them on the secretary. Late in December, shortly before Mr. Cooke commenced his operations which were to result so successfully, eminent bankers advised the secretary to withdraw the seven-thirty loan from the market.

Within twenty-four hours after his agreement with the secretary for selling the first \$100,000,000 of the seven-thirties, Mr. Cooke had made elaborate and expensive plans for bringing the bonds before the people. In a few weeks all the leading newspapers were printing information concerning the loan. Steps were taken to bring this information into the remotest hamlet. Men would be found upon every railroad train talking up the bonds. But all these arrangements required time. Subscriptions could not be forced from the people. In the mean time, considerable amounts of the bonds were paid to government creditors and large creditor corporations under a plan devised by Mr. Cooke and consented to by the department.

These creditors received the bonds in payment of their requisitions upon the Treasury under the form of subscriptions to the loan, with an explicit written pledge that the bonds should not be thrown upon the market until after a certain time. Their holders, however, were to be permitted to pledge them to savings banks and others for money loaned upon them. By this arrangement the creditors were paid with means which could be used in business, the demands upon the Treasury were reduced, and increased confidence in the public securities seemed to be established.

Fortunately, for the country and the Treasury, great military successes now came to secure the cause of the Union. The month of December, which opened in uncertainty, closed with Sherman established in Savannah and the destruction of Hood's army by Thomas. These events increased the good effects already resulting from the measures of the secretary. The rise in price of all government securities revived the subscriptions to the long dormant ten-forty bonds. At a prior time these bonds were down five per cent below par. They had now risen to a premium and subscriptions were rapidly increasing. When subscriptions to them had reached \$100,000,000, strong efforts were made to induce the secretary to withdraw the ten-forties from the market. He declined to do so at this time, but subsequently gave notice that this loan would be withdrawn on the 7th of January, 1865. When finally withdrawn, over \$70,000,000 additional had been subscribed for, making \$172,000,000 from the ten-forty loan of which \$100,000,000 were sold while Mr. Fessenden was secretary.

While the ten-forty loan was on the market, a combination was formed in New York to take the balance of the first \$100,000,000, amounting to some \$18,000,000.

This was done under the belief that this loan would be withdrawn when \$100,000,000 had been sold, and appeals were made to the secretary to announce it. The secretary declined to give the assurance.

Early in February, 1865, the effect of Mr. Cooke's wide and energetic plans began to be felt in rapidly increasing subscriptions to the loan. Having once begun, they augmented, under the influence of a belief in the speedy termination of the Rebellion, in a constantly swelling stream. To be ready to accept a greater amount of subscriptions than the \$200,000,000 advertised for, the secretary prepared and sent to Congress a bill which was enacted and approved on January 5, by which he was authorized to raise, in the form of seven-thirties, any balance of the \$400,000,000 authorized by the act of June 30, 1864. By this foresight more than \$234,000,000 of seven-thirties were disposed of prior to March 4, 1865.

For the first time for four years there were indications that the receipts would enable the Treasury to meet promptly the maturing liabilities, that the certificates of indebtedness would be paid when presented, and that all the money needed by the government would be supplied by the people. The doubt and distrust which had so heavily embarrassed Mr. Chase and Mr. Fessenden throughout all their negotiations were now almost removed. In the future the secretary would have only to indicate the amount desired to gather it easily from the nation. When Mr. Fessenden retired from the department, he felt no anxiety as to sufficient means to meet all demands upon it. The receipts from customs and from internal revenue were rapidly enlarging under the operations of the acts of Congress; and while the customs increased considerably beyond the estimates, the internal revenue was by the end of the year more than \$100,000,000

greater than had been calculated. "It may be truly said," declared Assistant Secretary Harrington, in his account of the Treasury under Mr. Fessenden, "that by a firm will, a clearly defined and well-sustained policy, and unflinching constancy, the bridge leading from threatened bankruptcy has been built and the affairs of the Treasury have been conducted to a position of comparative safety." And he adds: "It would be impossible to depict in words the perplexities, the annoyances, and the harassing anxieties to which the heads of the department during the four years of the war were subjected. They had been expected to provide not only for the present but for the unknown future. Whatever sum might be demanded for to-day was sure to be followed by a demand for a larger amount to-morrow. The securities of the government had apparently replaced all the hoarded wealth of the country, and had reached an aggregate bewildering to European intelligence. The close of the war would change the position of the secretary from one of unremitting solicitude to fill the Treasury to the more simple and less harassing if not agreeable one of determining the wisest policy of emptying it."

It became evident early in February, 1865, that the entire seven-thirty loan would soon be taken. Subscriptions were pouring in at the rate of \$3,000,000 a day, with rapidly swelling revenues from internal taxes. It was desirable that there should be no check to the patriotic subscriptions of the people. Once stopped it might be difficult again to fix the public attention upon a large government loan. Whether the war continued or whether it ended, as seemed probable, in a few months, there would still be required enormous amounts for the army and navy. To provide for these sums, Secretary Fessenden prepared a bill which was soon passed by Congress,

giving authority for \$600,000,000 of new loans. These might be issued in the form of seven-thirties at the discretion of the secretary, and could be made to lap on to the new loan now before the people, and thus prevent any break in the subscriptions. While the exercise of that authority would mainly depend upon his successor, Mr. Fessenden provided for all contingencies, and put the loan in execution before he left the department. Before the act had passed Congress, he caused the plates to be prepared for printing the new bonds, leaving blank the space for the date of the act. Within an hour after the date was ascertained, the energetic chief of the Printing Bureau announced that the printing of the new bonds was in progress. Mr. McCulloch did not assume the duties of secretary until the middle of March, and before he became secretary some \$30,000,000 of the new bonds had been sold. The fact is that the additional loan of \$600,000,000 was launched and in the full tide of success before Mr. McCulloch became secretary.

Assistant Secretary Harrington, after stating that \$70,000,000 of the new \$600,000,000 loan were sold prior to the end of March, that \$104,000,000 were sold in April, and \$225,000,000 in May, says: "These figures conclusively prove that the financial policy and measures instituted by Mr. Fessenden were found to be sufficient for all exigencies, and that his successor had only to take care that the sale of the seven-thirties should not be checked for want of a prompt supply of the bonds, which depended upon the chief of the Printing Bureau."

The secretary's measures were not confined to raising means for the government during his own term, and launching the loan which provided for the public expenditures of the coming year under his successor. He also prepared the way for funding the public debt at lower rates

of interest. Anticipating the early end of the Rebellion, he included in the act of March 3, above mentioned, the necessary power to enable the future secretaries to rearrange and consolidate the public debt. Hitherto the varied loan bills prepared in the department and submitted to Congress contemplated the sufficient authority merely to supply deficiencies by new loans, and such authority in several cases, if not employed within a given time, expired by limitation. In preparing the bill to meet the estimated deficiencies of the coming year, it was the part of wisdom to assume that the large expenses of the war might continue, and to provide for them. But as it was probable that the war would soon cease, it was also important that in such an event the Secretary of the Treasury should have ample authority to fund the debt in long bonds at the lowest rate of interest permitted by the market. Mr. Harrington says: "The proof that the large and wise forethought of Mr. Fessenden embraced all these considerations is to be found in the bill prepared by him which Congress so liberally, so unreservedly, and so confidently enacted into a law bearing date the 3d of March, 1865."

Few acts of Congress relating to the public finances ever embraced so many important provisions as the act of March 3, 1865. Any possible deficiencies were provided for by authorizing \$600,000,000 of new loans. For these the secretary was limited to forty years as the maximum length of time for issuing the new bonds, with a rate of interest not to exceed six per cent in coin, or seven and three tenths per cent in currency. We have already seen how these additional \$600,000,000 were raised. The act then conferred authority upon the secretary to issue additional bonds to any amount and in any form with interest payable in coin or currency, sub-

ject only to the limitations imposed upon the \$600,000,-000 above authorized, as might be necessary for the purpose of converting "any Treasury notes or other obligations bearing interest issued under any act of Congress," which of course included five-twenty bonds as well as all others. The secretary was further authorized "to dispose of such bonds or obligations either in the United States or elsewhere in such manner and under such conditions as he may think advisable for coin or for other lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value which have been or may be issued under any act of Congress."

Finally, the act of March 3, 1865, prohibited the further issue of legal tender notes.

After the seven-thirty loans had been negotiated, the floating debt of the government, exclusive of the currency, stood at \$1,289,000,000. Of this amount \$834,000,-000 were seven-thirties which would fall due in 1867 and 1868, mostly in the latter year. These were convertible at the option of the government into five-twenties when they fell due, and five years afterwards might, at the discretion of the secretary, be converted into ten-forties, and these, at the expiration of ten years, might again be funded into four per cents or less. It will thus be seen that at a period not later than 1883 this vast loan could, under Mr. Fessenden's provisions, be funded into a four per cent bond, or, if the market permitted, into a bond bearing even a less rate of interest. Under Mr. Sherman's funding act of 1870, the five-twenties into which the seven-thirties had been consolidated were funded five years earlier into the long four per cents which are due in 1907. The same thing could have been done under the act of March 3, 1865, in 1883, and into a

three per cent instead of a four per cent bond. As to the balance of the floating debt amounting to \$459,000,000 of non-conditioned indebtedness, exclusive of the currency, it might have been funded in the same way. There were \$212,000,000 of compound interest notes not due until 1868, which were convertible into five-twenties at the discretion of the secretary with the consent of the holders. The latter would have been only too glad to receive the permanent securities of the government in exchange for these notes. If no funding act had been passed by Congress subsequent to March 3, 1865, the whole of the public debt could have been as easily and economically refunded as it was afterwards under the act of 1870. The act of March 3, 1865, conferred power and discretion to take up the paper money of the government by conversion into bonds. All the compound interest notes, amounting to more than \$150,000,000, were disposed of in this way, and funded into five-twenties.

Mr. Fessenden's measures had made the secretary master of the financial situation. The consolidation of the debt under the influence of peace and an overflowing Treasury could proceed as to amounts, rates of interest, and forms as the wisdom of the secretary should dictate.

When he consented to take the Treasury, Mr. Fessenden did so with the understanding between President Lincoln and himself that he should be at liberty to resign as soon as the aspect of public affairs was sufficiently favorable to permit him to retire from the department. He was a candidate for reëlection to the Senate. This event occurred on the 5th of January, when he was chosen United States senator from Maine for his third term. His new term began with the 4th of March, the date of Mr. Lincoln's second term. On the 6th of February Mr. Fessenden sent the following letter to the President:—

DEAR SIR, — Having been elected a senator of the United States, and for reasons already explained to you having decided to accept that position, I now respectfully beg leave to resign the office of Secretary of the Treasury. In accordance, however, with your desire expressed to me verbally, this resignation may be considered to take effect on the 3d of March next, or on such earlier day as may prove more convenient to yourself.

On leaving the position which your favor conferred upon me, I desire gratefully to acknowledge the kindness and consideration with which you have invariably treated me, and to assure you that in retiring I carry with me great and increased respect for your personal character and for the ability which has marked your administration of the government at a period requiring the most devoted patriotism and the highest intellectual and moral qualities for a place so exalted as yours.

Allow me, also, to congratulate you upon the greatly improved aspect of our national affairs, to which and to the auspicious result of our prolonged struggle for national life, now, as I sincerely believe, so near at hand, no one can claim to have so largely contributed as the chosen chief magistrate of this great people.

That your future administration may be crowned with entire success, and that you may at its close take with you into retirement the well-deserved gratitude of the people you have well and faithfully ruled, is the most fervent wish of

Your friend and obt. servant,

W. P. FESSENDEN.

TO THE PRESIDENT.

While Mr. Fessenden was glad to leave the Treasury to return to the Senate, whose independence he preferred,

he parted from the President with regret. He had always regarded Mr. Lincoln as a remarkable man since reading the great debates between Lincoln and Douglas, and closer acquaintance as a member of the Cabinet had increased his high estimate of the President's character and abilities. Their intercourse was of the most agreeable nature while Mr. Fessenden was in the Cabinet, and there was never a dispute or difference between them upon any subject. In conversation at parting, both expressed satisfaction that events had brought them together, and had given each increased respect for the character and services of the other.

Another gentleman for whom Mr. Fessenden conceived a warm friendship, arising from their association in the department, was Assistant Secretary Harrington. On the day Mr. Fessenden resigned the department, he wrote to Mr. Harrington as follows :—

March 3, 1865.

MY DEAR MR. HARRINGTON, —I cannot leave the department without expressing to you my deep sense of obligation for the support and aid you have rendered me. Your labors have been unremitting and the more arduous probably for the reason that during the present fiscal year, the department has been obliged to encounter great difficulties without that experience at its head which was urgently required. To your great executive skill and your untiring devotion to the public interests the country owes much, and soon or late will accord to you that just appreciation to which a most able and faithful public servant is entitled.

Allow me to say, further, that but for your kind encouragement and assurance of support, I should hardly have dared to assume the responsibilities of the department in what seemed to be its darkest hour, and that

without your friendly aid and most effective coöperation I must have failed to achieve whatever of success has attended my efforts to overcome the difficulties in which I found myself involved. Be assured, my dear Mr. Harrington, that I shall ever retain a most grateful recollection of your unwearied exertions to lighten my labors and that I hope never to lose your friendly regard.

Believe me, most truly your friend,

W. P. FESSENDEN.

Three days afterwards Mr. Harrington, who was then acting as Secretary of the Treasury, replied with the following letter to Mr. Fessenden, which, embracing a review of the Treasury during his administration, is here given in full : —

TREASURY DEPARTMENT, March 6, 1865.

HON. W. P. FESSENDEN.

My dear Sir,—I cannot refrain from expressing to you my most sincere regret at the severance of our official relations. As you did me the honor, prior to your acceptance of the office of Secretary of the Treasury, to request of me an interview, during which the general affairs of the Treasury were laid before you, I trust I may be pardoned, if not justified, in briefly recapitulating the financial condition of the Treasury at that time, and in referring to the policy laid down by you for my government in conducting the details of that branch of the department and also in stating the results which have been attained by your firm adherence to that policy in the management of the financial affairs of the government confided by the President to your charge. I am further impelled to this by the great diversity of opinion among men of great general intelligence, as well as among the acknowledged financiers of the country, as to the measures necessary to

a certain and steady appreciation of our national securities to a specie basis, and the early resumption by the government of specie payments.

In the beginning of July last there were in the department suspended requisitions pressed for payment to the amount of more than \$91,000,000, soon thereafter increased to upwards of \$130,000,000.

On the 15th of August and 1st of October the seventhy issue of 1861 would mature to the amount of \$140,000,000, subject to an optional demand for payment in currency.

The temporary loan at five and six per cent interest payable on demand or on ten days' notice, its continuance dependent upon the market value of money, was \$78,000,000.

The current expenditures of the government were near \$2,000,000 per day, and the maturing obligations or floating debt required daily an amount in currency varying from one half a million to a million and a half of dollars. Coin had touched 285, or a premium of one hundred and eighty-five per cent.

To meet these accrued liabilities and current expenditures was the amount of daily receipts from internal revenue, which were less than \$500,000. Such was the condition of the Treasury when you entered upon the duties of secretary. Increased receipts from the amended tax law could not be realized for some months thereafter, and consequently the principal dependence was upon loans from the people, or a resort to further issues of currency. The amount of interest and non-interest legal tender previously issued was already more than \$650,000,000.

You announced to me your determination not to increase that amount. The \$200,000,000 five per cent forty loan had not been for some months before the people

for subscription at par; as those bonds could be obtained in open market at several per cent below par, the receipts from that source were merely nominal.

An *immediate* loan of \$50,000,000 being desirable, efforts were made with that view, which failed.

You then directed plates to be prepared for the issue of currency securities in the form of three years seven-thirty notes, coupled with the privilege of conversion after maturity. On the 15th of August this loan was thrown open to popular subscription, not with sufficient success, however, as to prevent a compulsory recourse to gold-bearing bonds. A loan upon six per cent bonds moderate in amount (\$32,000,000) was taken at a premium of four per cent, with indications unfavorable to further loans at or near similar rates. The necessities of the Treasury, however, peremptorily demanded another loan, and under proposals invited, a loan was awarded at a fractional premium, though at an actual cost to the takers below par. Advices from all quarters concurred in opinion that a further loan could only be negotiated at from five to ten per cent discount. The bonds most recently awarded were resold in open market under par. The conversions of the seven-thirties of '61 were at once checked and under the option the danger of a currency demand therefor rendered imminent.

With this depreciation of the six per cent bonds, the sale of currency seven-thirties nearly ceased; the five per cents were below par, .94; the certificates of indebtedness under .93, with a rapidly declining market for all government securities. The inexorable demands occasioned by the war increased with the greater activity of the armies in the field consequent upon the execution of the skillful and extended combinations of the lieutenant-general, and at the same time the volume of temporary or floating

debt duly maturing was augmenting with each week. You will remember, and as may well be supposed, the pressure for money was unceasing. One class of creditors and financiers demanded the further issue of bonds at market rates, whether those rates should be ninety, eighty, seventy, or sixty, ignoring the fact that a continued and marked decline subsequent upon an overloaded market, with further large supplies known to be in reserve and which must of necessity be soon brought out, would create a panic with present holders of former issues, the result of which upon the credit of the country needed no seer to foretell. Another class equally imperious demanded relief by the further issue of currency. The results to the Treasury in either case under the circumstances then existing would have been substantially the same, one rapidly depreciating the bonds, the other as rapidly depreciating the currency, but appreciating in both cases the cost to the government of all its supplies. On the other hand, very many intelligent gentlemen who had given lifelong attention to financial affairs appealed to the department for, and through the public press demanded, a reduction in the volume of the currency by cancellation, in some instances indicating that at least one fifth of the daily receipts should be then withdrawn. You yielded to neither of these demands, but at once took measures to correct existing evils and relieve the Treasury without causing either a further depreciation or creating a fictitious appreciation which would necessarily follow a further issue of currency. Your efforts resulted in an advance of the six per cents from par to a ten per cent premium, and with this rise all doubts of the conversion of the seven-thirties ceased.

The rise in the five per cents was only checked when their value reached the government price, and from that

source nearly \$100,000,000 were realized before that loan was withdrawn. The certificates of indebtedness, the issue of which was peremptorily stopped, reached within one and a half of par. The annual interest upon the gold-bearing bonds would now amount to nearly the anticipated receipts from customs for the coming year, and you expressed your purpose not to create a demand for coin on account of the government beyond the supply produced from customs duties.

It was presumed that before the maturity of the seventy-three currency notes, the restored prosperity of the country would swell the receipts from customs sufficient to enable the department to meet the increased coin obligations that might arise from the conversion of such notes into gold-bearing bonds. The use of proper exertions in bringing the currency seven-thirties before the people, it was believed, would result in large sales, and new agencies were resorted to with complete success.

In the mean time, the character and amount of the several classes of obligations of the government were carefully scrutinized, with a view of ascertaining the amount of what may be termed the floating debt to meet which so large a proportion of the daily receipts into the Treasury was required. Subscriptions to the extent of \$2,000,000 per day, sufficient to meet all the current expenses of the government, were frequently all absorbed in those maturing temporary obligations. Though their creation originally was a necessity, a continuance of that policy would be ruinous.

Contraction must of necessity begin there; first by ceasing and next by reduction, and as rapidly as such obligations might mature, to liquidate them by currency or by conversion into long loans.

In view of this determination, the issue of certificates

which had of necessity been continued until the aggregate of outstanding amounted to more than \$247,000,000, ceased, and of that amount more than \$58,000,000 have been paid, and of the temporary loan a reduction of \$24,000,000 has been effected, without resort to any additional issue of legal tender notes.

A continuation of this policy will, within the current year, bring the finances of the country within the control of the secretary, leaving him free to apply the receipts from taxes and from long loans to the current expenditures occasioned by the war, and, to the extent of any surplus, to the contraction of the currency. I have stated that the amount of legal tenders outstanding was about \$651,000,000. It is an error to assert that the circulation of the country has been more than temporarily increased by the issue of interest-bearing legal tender. The form of such notes finally adopted by your predecessor insures their withdrawal, as was intended, within the year as the best paying investment offered by the government.

Admitting the volume of legal tender outstanding to remain as now, the actual national circulation before the close of the war will, in fact, be but little over \$400,000,000. Allow me, in conclusion, clearly to state that during your administration the volume of legal tender has not been increased a dollar; that from its highest aggregate the amount of floating debt has been reduced \$82,000,000; that the suspended requisitions for all purposes other than for pay of the army amount to but \$24,000,000; and there are \$16,000,000, exclusive of coin in the Treasury, subject to draft. The payment of the armies is progressing, a sufficient amount of money having already been furnished to meet the requisitions for the armies of the Potomac and the James, those at Norfolk, Portsmouth, Baltimore, Washington, the Shenandoah Valley under

Sheridan, and Western Virginia, and there is more than sufficient coin in the Treasury to meet all the demands for interest that will accrue upon the public debt prior to the 30th of June next.

With the successful march of our armies and the re-establishment of the Federal authority, and an adherence to the policy initiated by you, it may be expected that with the increased returns from internal taxes and from long loans, the floating debt may be speedily extinguished and the contraction of legal tender follow. The increased exports of the staple products of the South, as well as the North, will be more than sufficient to pay our foreign debt, and necessarily the premium upon coin, already reduced from a premium of 185 to 96, will continue gradually but surely to fall, to be followed by largely lessened expenditures consequent upon lower prices. In the mean time the volume of actual circulation will be greatly diminished, as the accumulated interest upon the compound interest legal tender notes prompts their withdrawal as an investment, and it may be fairly asserted that your measures, if followed up, will result in a rapid restoration of our finances to a sound and healthy basis. I have endeavored to carry out your views and wishes to the best of my ability. The uprightness of your character, the strict justice by which you have been governed in the administration of the affairs of the department, and your kind consideration have attached me most warmly to you, and in closing I can but reiterate my regret at the termination of our official relations.

I am, dear sir, most truly yours,

GEO. HARRINGTON,
*Asst. Secretary to the Treasury
and Sec. ad interim.*

The Riverside Press

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LIFE AND PUBLIC SERVICES
OF
WILLIAM PITT FESSENDEN

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OF
WILLIAM PITT FESSENDEN

UNITED STATES SENATOR FROM MAINE 1854-1864; SECRETARY
OF THE TREASURY 1864-1865; UNITED STATES SENATOR
FROM MAINE 1865-1869

BY HIS SON

FRANCIS FESSENDEN

Brigadier-General U. S. A., Retired Major-General U. S. V.

IN TWO VOLUMES

VOL. II



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CHAPTER VII

RECONSTRUCTION

1865-1866

WHEN Mr. Fessenden was appointed to the Treasury, his second term in the Senate was drawing to a close. He was to be a candidate for reelection before the next legislature. No contest was expected and no other candidate was mentioned at this time, but the Republican Convention nominated Andrew Johnson for Vice-President instead of renominating Hannibal Hamlin of Maine.

At the time of those nominations, Mr. Fessenden had no idea of ever being the Secretary of the Treasury. It was some time before Mr. Chase's resignation. But as soon as Mr. Fessenden had been appointed secretary, the friends of Mr. Hamlin began to talk of him as Mr. Fessenden's successor in the Senate. Mr. Hamlin was extremely popular in the State, a splendid public man of the finest abilities and character. He had many devoted admirers, and they ardently desired to keep him in public life. They argued that the country needed Mr. Fessenden at the head of the Treasury, and that Mr. Hamlin should be restored to the Senate, and thus both gentlemen could be retained in the public service. Mr. Fessenden, however, desired to return to the Senate, and had accepted the office of Secretary of the Treasury upon the understanding with the President that he would give up

the office as soon as the safety of the public finances would justify it. Mr. Hamlin, not being informed as to Mr. Fessenden's intentions and wishes, became a candidate for the senatorial vacancy which would exist if Mr. Fessenden should remain in the Cabinet, and his canvass was begun supposing Mr. Fessenden not to be a candidate for another term. The stories circulated about his intentions were so numerous and so varied that he at last wrote to his old friend Mr. Tenney of Maine for publication: —

“I felt honored when a legislature, Democratic in both branches, conferred upon me, an open and decided Whig, a position so eminent as that of a senator from my State without asking of me a pledge or declaration of opinion upon any subject. The office satisfied my highest ambition, and I have never desired any other. To the discharge of my duties as senator, and to winning a reputation creditable both to the State and myself, all my efforts have been given. How far I have succeeded it is for others to say, but it is certain that I have shrunk from no labor and lost no opportunity to benefit my country and my State. My reëlection without opposition was most gratifying as a proof of public confidence, and increased my obligation to a generous constituency.

“The period during which I have been in the public service has been a remarkable one in the history of the country. In all the great events of that period I have had some share, to the extent at least that a senator could have a part in them. I commenced with the Kansas bill, and have gone regularly through. Through my children I have had something to do with the war. One son has fallen upon the field. Another has given a limb to his country. A third has exposed his life in many battles, but has thus far been able to save both life and limb. On the whole, therefore, I am pretty well involved with the military as well as the civil events of the time.

“For the last three years I have held the most important and responsible position in the Senate, that of chairman of the committee on finance. It required continuous and exhausting labor, and at the close of each session I found my strength so impaired that rest seemed to me a necessity.”

Mr. Fessenden then recounted the circumstances how the Treasury was forced upon him, his efforts to decline it, his acceptance of it to avert a financial panic, and his notification to the President that he would retire as soon as the situation of public affairs warranted it. Proceeding, he said, “These, my dear sir, were the circumstances which induced my change of position. I believe the country is pretty well satisfied with the result of my administration of the finances thus far, though my views as expressed in my report have not met with the wishes nor served the purposes of certain people who write financial articles for the New York papers. I am, however, sustained by financial men whose opinions are of much value, and Congress, I am confident, will indorse my views.

“Pardon this long digression and let us return to the point of departure. It is, you will agree, not unnatural, that, having been so intimately connected with this great struggle from its beginning, I should desire to see it through. The state of things which called me to a position which is distasteful to me no longer exists. Another can easily be found to fill my place here without public injury. I shall feel on retiring that no one will have the right to say that I have failed in my duty or left any public or private obligation undischarged.

“All I have written has been merely the expression of my own wishes and feelings. These, however, after all, have not very much to do with the question. It is one of public interest and should be looked at solely in that

light. If the legislature should be of the opinion that another could render the country and the State more service and do the State more honor in the Senate, I should endeavor to solace myself with the hope that the country has been the gainer, contenting myself with the reflection that I am rejected only because the State could not so well dispense with the services of a better man."

The legislature assembled early in January. Mr. Fessenden's intention to leave the Cabinet and his desire for reelection to the Senate were now definitely known, and by general consent Mr. Fessenden was unanimously nominated.

Upon receiving the official notification of his election, Mr. Fessenden acknowledged it by the following letter:

TO THE LEGISLATURE OF MAINE.

Gentlemen,—I have received from the governor a certificate of my election as a senator of the United States for six years commencing on the fourth day of March, next. This renewed proof of confidence on the part of the people of Maine through their representatives has afforded me the highest gratification. No man is fit to occupy an eminent public position who is not content to find his best reward in the approbation of those whose servant he is and of his own conscience. I am grateful, gentlemen, for the honor conferred, and more for the evidence it affords that the State I have been proud to represent in the legislative councils of the nation is well satisfied with my endeavors in executing the trust committed to my care to protect its interests and uphold its dignity.

I left the Senate before the close of my second term in obedience to what seemed to be a necessity. I shall return to it with the consciousness that, however imper-

fectly, my best efforts have been given to the discharge of onerous and responsible duties. In again confiding to me the honor of our noble State, as one of its representatives, you have shown that my efforts to serve our beloved country in the place to which I was thus called have been satisfactory to the people you represent. I will venture to express the hope that hereafter, as heretofore, no act of mine will tarnish the lustre which their patriotism and devotion to the Union and to freedom have won for the people we are so proud to serve.

The term of President Lincoln's administration now about closing has been marked by extraordinary events. It will form a remarkable epoch in history. According as men have played their parts in it—as they have arrayed themselves in the struggle which has enchained the attention of the world, and the result of which must seriously affect the welfare of ages to come—will be the judgment passed upon them either in masses or as individuals. Let it be our boast that from the beginning Maine was found true to the cause of civil liberty, that at no moment did her people falter or faint—that no sacrifice could shake her purpose or weaken her faith—and may the future prove as the past has proved, that, in her estimation a cause holy enough to fight for is never to be abandoned until won.

With great respect, your obedient servant,

W. P. FESSENDEN.

The conditions upon which the insurgent States should be restored to their relations with the Union if the war should be successful had been much discussed, both in and out of Congress, for a considerable time before the war was over. Mr. Lincoln had proposed a plan for their reconstruction or restoration in December, 1863. This

plan permitted the people of a State to organize a state government provided the population should take an oath of loyalty to the Union and should be sufficiently numerous to cast a vote one tenth as large as that cast at the Presidential election in 1860. Under this proclamation a free state convention met in New Orleans in January, 1864, which accepted the Emancipation Proclamation. Subsequently an election was held by order of General Banks, a governor was chosen, and the President issued an order investing him with the powers previously exercised by the military governor. It must be remembered that Louisiana was then held by an army under General Banks, and that a Confederate army held the northwestern portion of the State. Similar action was taken in Arkansas, where senators and representatives were elected to Congress. Mr. Lincoln's plan was not generally liked in Congress, and when the Arkansas senators presented themselves for admission to the Senate, that body adopted a resolution that the Rebellion was not so far suppressed in Arkansas as to entitle that State to representation in Congress. In the last week of the session, in July, 1864, Congress had passed a bill which directed the President to appoint a provisional governor for each State in rebellion, who, as soon as military resistance had ceased, was to make an enrollment of the white male citizens, submitting to each an oath to support the Constitution. If the majority took the oath, then the governor was to order an election of delegates to a constitutional convention.

This convention was to incorporate into their state constitution three fundamental provisions. The first excluded from office and from voting, certain persons who had participated in the Rebellion. The second abolished slavery. The third provided that no debt, state or Confederate, in aid of the Rebellion should ever be paid.

When these had been adopted and certified to the President, then the President, *after obtaining the assent of Congress*, should recognize the state government as the legitimate and constitutional government. This bill the President permitted to die for want of approval, and as Congress meanwhile had adjourned it could not be passed by a two thirds vote.

After Congress had adjourned, Mr. Lincoln issued a proclamation in which he laid the plan of the bill before the people for their consideration, saying that he had already propounded one plan and was unprepared by a formal approval of the bill to commit himself to any single plan of restoration. Yet he was perfectly willing that the loyal people of any State should follow the plan embodied in the bill, and that he would sustain them in so doing.

Mr. Lincoln's course was disapproved by a majority of the members of Congress, and thereby arose the issue which afterwards divided President Johnson and the Republicans. The President assumed as commander-in chief to bring the States back into the Union. On the other hand, Congress claimed the right to say when, and to fix the conditions under which, the States should come back and participate in the government. If one may judge from President Lincoln's declaration, in his Life by Hay and Nicolay, he was, as late as February 3, 1865, of the opinion that the rebel States were entitled to be admitted to representation in Congress if they ceased their resistance to the government. And at the same time he was willing to pay them four hundred millions of dollars as compensation for their slaves.

Among Senator Fessenden's papers is found the following:—

1st. A summons to a Cabinet meeting on the engraved form used for that purpose:—

DEPARTMENT OF STATE,
WASHINGTON, Feb. 5, 1865.

SIR, — The President desires a meeting of the Heads of Departments at the Executive Mansion at 7 o'clock this evening.

F. W. SEWARD, *Asst. Sec'y.*

To the Honorable SECRETARY OF THE TREASURY.

Senator Fessenden returned from the meeting and indorsed upon the invitation :—

“ A proposition to offer the Confederate and other slave States 400 millions of dollars, to be divided among them according to the census of 1860, and a general amnesty, provided they disbanded and submitted before April 1, \$200 millions to be paid then and the other 200 by July 1, if the constitutional amendment should have been then adopted.

“ As this was to be submitted to Congress, it was thought not advisable, because there would probably be no chance of its being adopted before the adjournment ; and it was evident by the unanimous opinion of the Cabinet that the only way to effectually end the war was by force of arms, and that until the war was thus ended no proposition to pay money would come from us. — W. P. F.”

So strong was the feeling against the course of the President that Mr. Wade and Henry Winter Davis, who were the authors of the bill spoken of above, united in a protest against the President's action. They condemned his plan in such unsparing language that it caused a reaction. The nation was struggling for its existence, and men felt that the President must be sustained. But when Congress met in December, 1864, the subject was dropped by common consent until the Rebellion should be subdued. Then followed the assassination of President Lincoln, and Vice-President Johnson became president.

The power of Congress over the Confederate States was absolute, as the majority of Congress thought, from the law of nations as part of the law of the land. Senator Fessenden, among others, held that the insurgent States at the close of the war had no constitutional rights until Congress had fixed the terms of restoration and had readmitted the States; that the doctrine that rebellious States which had been conquered in war could wage war as long as they chose, and by surrendering regain at once all their previous constitutional rights, put a premium on rebellion, and was self-destructive to a government, and that the law of nations under which Congress had subdued the Rebellion was the law under which the consequences of the war were to be settled.

Mr. Fessenden stated this to be the law in his reply to Saulsbury, again in his reply to President Johnson, and at length in his report which he wrote for the committee on reconstruction. In his reply to Saulsbury he said, "Gentlemen must reflect that as part of the constitution written or unwritten, of all governments stands the law of nations, necessary from the relations which all communities bear to each other and from the contingencies to which they are exposed. That being the case, they must accept the consequences which follow from it. Were they to be told that their affairs as connected with that war were not to be closed up under the same law which governed this nation and which governs all nations while the war continued?"

And in his answer to President Johnson's attack on the committee on reconstruction he said, "The country had been in a state of war, and the question was, What were the consequences of a successful war when one nation conquered another? There was nothing better established than the principle that the conquerors had the

power to change the form of government, to punish, to exact security, and take entire charge of the conquered people."

The consequences of civil war were precisely the same as in an international war, and a civil war was no different to a people living under a written constitution, on account of that constitution, from a civil war in any other nation. To the argument that Congress had no authority to carry on a war against a State he replied that the Constitution never contemplated a civil war, but it provided the means to quell it by giving power to Congress to raise and support armies without stating for what objects those armies were to be used. It resulted as a necessary consequence, if the law of nations existed in the United States and they were bound by its provisions, that a State might be swept out of existence by a civil war. The government could say a State had forfeited its status. If necessary the government had perfect power to prevent a State from resuming its position. A State had no rights in the Union when by its own act it had ceased to connect itself with the government.

As Mr. Fessenden did not accept the Treasury until after the adjournment of Congress, he was still in the Senate when the bill which embodied the congressional plan of restoration was discussed, and also when the resolution declaring that the senators from Arkansas were not entitled to admission was reported from the judiciary committee. Though entirely engrossed in carrying through the important financial measures of the session, he spoke briefly on the subject and foreshadowed his opinions upon the powers of Congress over the rebellious States. It was evident that he thought the bill was premature, while he advocated the passage of the resolution excluding the senators from Arkansas. He said that the question was a

very important one and should be settled before adjournment. He had always been of the opinion that the question of reconstruction, the question of what is and what is not a State to be represented in Congress, should properly be settled by Congress and could not be settled by any other power than Congress. He was of the opinion that so far as the power to be represented in Congress was concerned, a State which had been in insurrection, which had been in the power of the enemy, and which had deliberately pretended to join another confederacy, was not entitled to be represented in Congress until she had returned to her allegiance. It was not enough that a portion of her people, sustained by the military power of the United States, declared themselves to be a State — Congress must first declare it by the admission of senators and representatives, and Congress should put an end, and at once, to all these questions which had been raised with reference to the pending presidential election, and he was of the opinion that before “we attempted business of reconstruction there should be something in our power to reconstruct. It would not be too late to act upon that when our action could be made efficient.” He did not wish, however, to express any opinion as to the details of the bill (one of the early reconstruction measures). The other question he considered of great importance. It ought to be settled at once, and the wishes of the gentlemen who claimed the seats or the wishes of party friends ought not to be consulted, in view of the great importance of the question itself and the serious consequences which might follow if it were left unsettled. He hoped the resolution would be acted upon and disposed of.

During the recess of Congress from March to December, 1865, he watched with extreme solicitude the attempts of President Johnson to restore the insurgent

States to the Union. Acting upon the urgent suggestion of Mr. Stanton and his assurance of the President's absolute confidence in Mr. Fessenden, the latter endeavored to maintain a friendly intercourse with President Johnson in the hope that he might be able to avert a quarrel with Congress. He knew the President's peculiarities, but he believed him to be honest, especially at the beginning, and that he meant what he said when he declared that treason must be made odious, that traitors should take no part in the restoration of the States, and that negroes should vote in Tennessee. But he thought that the President had made a great mistake in the outset, and that, with a man of his temper and character, was fatal, for it would prevent him from perceiving his error. Mr. Fessenden considered the occasion was an extraordinary one, eminently such as the Constitution contemplated, which required the highest wisdom of all, and that it was the duty of the President to call Congress together. Unfortunately the President had conceived the idea that he could deal with the matter alone, and that he alone had the power to initiate *new* governments, for he expressly declared that *none* then existed. In his efforts at restoration President Johnson had issued two proclamations during the recess of Congress, one of amnesty, and one respecting a convention to restore North Carolina. The proceedings under these proclamations were regarded by Mr. Fessenden as sheer usurpation, and he so wrote a member of the Cabinet. "In these proclamations the President had jumbled his powers together." As President, said Mr. Fessenden, he had no power whatever, for as President he could only execute the laws and there were no laws to execute applicable to the matter of restoring or constituting governments. All he could do as President was to extend existing laws over the territory

lately in rebellion. If on the other hand he was proceeding under his military power as commander-in-chief, there was no authority here to appoint civil officers and initiate governments to be supported by armed force, as was indicated in his proclamation, force to be employed in the execution of his edicts to form governments, to exclude a large portion of the loyal people from civil rights, and to dictate what sort of a constitution should be formed. At this time he gave the President credit for good intentions, supposing that his proceedings were merely designed as an experiment, the results of which were to be submitted to Congress. His hopes were dispelled by the President's message in December, in which restoration was treated as an accomplished fact, and which called on Congress to admit senators and representatives without inquiry.

The course of Mr. Johnson aroused the gravest apprehension among Republicans. The two houses assembled with a consciousness that a difference might develop between Congress and the President. It was manifest, too, that he would have supporters of his policy among the Republicans. Mr. Fessenden, with other leading Republicans who held that the question of reconstruction should be settled by Congress, felt that while Congress should act with promptitude and firmness it must proceed with caution toward the President, with whom a quarrel might be fatal to the party and disastrous to the country. It was important to make the President understand that Congress would exercise the right to inquire into the condition of the seceded States and to fix the basis of reconstruction. It was also desirable to prevent hasty action by either house.

The determination of the Republicans in Congress to take entire control of all questions of restoring the seceded States without regard to the acts and policy of the

President was strengthened by the cruel and tyrannical laws against the colored people which had been enacted during the recess by the seceded States, and by the election to Congress of the most prominent rebels, who now appeared in Washington and demanded as a right immediate admission to their respective houses.

Congress assembled on the 4th of December, 1865. In the organization of the Senate Mr. Fessenden was again placed at the head of the committee on finance. The war was over and there were no longer vast sums to be raised to sustain the armies and navies of the republic, but the revenues were to be reduced. The long and intricate internal revenue and tariff laws were to be revised. These were familiar matters to Mr. Fessenden, and he anticipated a comparatively easy time, as the committee had been made up to suit him. All of the great financial measures of the war had passed his examination in committee, and had been afterwards debated by him in the Senate. He was now to be placed at the head of a still more important committee, the most important that had ever been appointed in the history of Congress,—the joint committee on reconstruction,—and this, besides involving great labor, would require the utmost discretion and good judgment.

Immediately after the organization of the House, Mr. Thaddeus Stevens offered a resolution providing for the appointment of a joint committee of fifteen, nine on the part of the House and six on the part of the Senate, to inquire into the condition of the so-called Confederate States and report whether they or any of them were entitled to be represented in either house of Congress, with leave to report by bill or otherwise, and until such report should have been received and acted upon, no member of said States should be received in either house,

and all papers relating to the representation of the said States should be referred to said committee, without debate. The rules of the House were suspended and the resolution was at once adopted.

This resolution was called up in the Senate on December 12, and inasmuch as a joint resolution required the signature of the President, it was first amended and made a concurrent resolution of the two houses, to avoid a possible disapproval by the President. It was then objected that neither house had the right to part with its control over the question of the qualifications of its own members. To obviate this difficulty, the last part of the resolution was omitted. As finally adopted it simply authorized the committee to inquire into the condition of the so-called Confederate States and report whether they or any of them were entitled to be represented in either house of Congress, with leave to report at any time by bill or otherwise.

As the rules of the Senate did not permit the majority to shut off debate, the resolution provoked discussion. It was opposed by the Democrats and by those Republicans who soon became recognized as the President's champions, Cowan, Dixon, and Doolittle.

Mr. Fessenden replied to them. He regretted the debate had sprung up, as he considered it out of place. It sometimes happened that things foreign to the question were said which ought not to be allowed to pass without comment. When the resolution first appeared he approved it because the question of the readmission of the so-called Confederate States required serious consideration. He felt that a committee of the two houses to consider the subject was an imperative duty. He did not pin his faith upon anybody, however prominent his position. Congress was a part of the administration and should not abandon its

duties in favor of anybody. Upon questions of such infinite importance Congress was bound to bestow the utmost care and act upon its own convictions. He favored the resolution because it looked to deliberate consideration before action. It was important that the subject should be investigated by a committee of both houses because there should be harmony of action between them. It was better to spend a little time now than to take a step which they might repent. He had felt the same objections to the resolution which were to be removed by the amendment. He did not approve of shutting off debate in the Senate. That might be necessary in the House for the transaction of business, but it had never been necessary in the Senate. Nor did he consider it necessary that all the credentials of members should be referred to that committee. That could be done at any time by vote in each house. No harm would be done by a discussion in the Senate; it would be soon settled and thus could be avoided the apparent constitutional difficulty. Hence he had thought it best to strike out that clause and simply appoint a committee, and then if the Senate or House separately chose to pass a rule to refer all papers or credentials even to that committee it could be done, and the great object of putting the question which lay at the bottom of the subject of the admission of members into the hands of a joint committee had been accomplished. The only thing settled by the amendment was that the question of the fitness of the States to come in now was deferred until the committee had thoroughly considered it and reported upon it.

He did not agree with the senator from Wisconsin that passing this resolution for a committee was infringing upon the rights of anybody or making an intimation about any policy the President may have adopted. He hoped there were no such things as "exclusive friends of the Presi-

dent." He respected the President and was ready to support him in good faith and kind feeling in all that was consistent with his own views of duty to the country. But he dissented entirely from the doctrine that because a line of policy had been adopted by one branch of the government it must therefore be tried even if it was against his judgment. No measure would receive his support until he had examined it and believed it would result in good to the country. That was his duty as a senator. He hoped the resolution would be acted on simply as a matter of business. Nobody had a right to complain if Congress raised a committee for certain purposes. It was not an imputation upon any one. It was a course of action adopted for the good of the whole. He wished to say a word with reference to one principle that would guide his action. The country had just gone through a war, when it had been necessary to do some things for which no strict warrant could be found. He had held that while the country was in peril the President was not fit for his place if he did not take the responsibility of doing what was necessary to save the country. He had upheld those things because they were necessary. Congress ought now to revert to its original position. If he acted now upon different principles in time of peace from those he had defended in time of war, he wished everybody to understand the reason of it. In time of peril questionable measures were inevitable. The country should now come back to a written constitution and forget dangerous precedents.

After some discussion, mainly between Mr. Trumbull and Mr. Hendricks, the resolution, as amended, was adopted.

The vote on the resolution for the joint committee was the first test in the Senate of the solidity of the Republicans against the policy of the President. When the

resolution came to a vote on December 12, only three Republicans—Cowan, Dixon, and Doolittle—voted against it. This defection still left more than two thirds of the Senate Republicans while the proportion of Republican members of the House was even larger. So long as the Republicans maintained this strength they could pass any measure over the veto of the President, nor did they fail to do this except in one instance.

Writing of the situation Mr. Fessenden said: "The committee on reconstruction has a severe and onerous duty to perform, which must for some weeks occupy a great share of my time and attention. It is a difficult subject to deal with, for it has become much complicated by the steps already taken. Yet I think I see the way through it if Congress stands firm, as I think it will. We are embarrassed by men of extreme opinions who think all ways but their own are necessarily bad ways, and by others who cannot wait till the proper time, through fear lest their own names may not be sufficiently known in connection with the work to be done. The committee has a large majority of thorough men who are resolved that ample security shall attend any restoration of the insurgent States, come what will, while they desire, if possible, to avoid a division between Congress and the Executive, which could only result in unmixed evil. My belief is still that the President is as anxious as we are on that point; and if meddlesome people will leave him in peace, I think he will try hard to establish matters on a firm and safe basis. He manifests no desire to interfere with the proper prerogatives of Congress, and appears willing to yield much to its opinions. I cannot say quite as much for ——. Time has not improved him so much as I could wish, and I shall be very unwilling to trust him with power. Mr. Stanton, however, is a great and true man and has my

entire confidence. In his hands the country, its institutions, and human rights are as safe as they could be with any one, and his influence is powerful for good."

Much solicitude was felt in Congress about the make-up of the joint committee, and there was a good deal of consultation among Republican senators, not only as to its members, but especially as to who should be chairman. The Republican senators with a few exceptions indicated their wish that Mr. Fessenden should be the chairman. The necessity of great circumspection and self-control, in view of a possible quarrel with the President and the importance of the work, pointed out Mr. Fessenden as best fitted for the position. On the 21st of December the presiding officer of the Senate announced Messrs. Fessenden, Grimes, Harris, Johnson, Howard, and Williams as members on the part of the Senate. The members on the part of the House were Messrs. Thad. Stevens, E. B. Washburne, J. S. Morrill, John A. Bingham, Roscoe Conkling, George S. Boutwell, Henry T. Blow, A. J. Rogers, and Henry Grider. The Democratic members of the committee were Reverdy Johnson of the Senate and A. J. Rogers and Henry Grider of the House. In his "Twenty Years of Congress" Mr. Blaine says that "it is not often that such solicitude is felt touching the membership of a committee as was now developed in both branches. It was foreseen that in an especial degree the fortunes of the Republican party would be in the keeping of the fifteen men who would be chosen. The contest predestined and already manifest between the President and Congress might, unless conducted with great wisdom, so seriously divide the party as to compass its ruin. Hence the imperious necessity that no rash or ill-considered step should be taken. Both in Congress and among the people the conviction was general that the

party was entitled to the services of its best men. There was no struggle among members for positions on the committee, and when the names were announced they gave universal satisfaction to the Republicans."

Concerning this honor Senator Fessenden wrote home, December 24, 1865: —

"I have now been away for one whole month. The time has *flown*, for it has been filled with occupation. I did hope that I should not have so much to do for this session, and might feel a little less anxious. The matters of the committee on finance I could get along with, for they have become familiar to me. Unfortunately, however, I am placed at the head of the committee on reconstruction, and this, besides its delicacy, will be a position involving very great labor and requiring great care and circumspection. I could not decline it any more than I could decline the Treasury. Mr. Sumner was very anxious for the place, but, standing as he does before the country, and committed to the most ultra views, even his friends declined to support him, and almost to a man fixed upon me. Luckily, I had marked out my line, and everybody understands where I am. I think I can see my way through, and if Sumner and Stevens and a few other such men do not embroil us with the President, matters can be satisfactorily arranged — satisfactorily, I mean, to the great bulk of Union men throughout the States."

Congress having adjourned over the holidays, the committee did not begin its labors until January 6, 1866. He writes at this time to his family (January 14, 1866):

"I unfortunately tumbled down a few days ago, and struck my chin, cutting it, and bruising it more — lucky I did n't break my jaw. Grimes says I found something harder than my face. I replied that had he fallen it would have been the ground that suffered.

“It is very unlucky for me that I have been forced to take hold of this reconstruction business. As I anticipated, the work of the finance committee will give me no trouble. This, however, engrosses me, and with all other matters makes the burden heavy. In addition to all other difficulties, the work of keeping the peace between the President and those who wish to quarrel with him, aided as they are by those who wish him to quarrel with us, is a most difficult undertaking. The fools are not all dead, you know. I hope we shall be able to put things upon a sound basis. That *must* be done, quarrel or no quarrel, but I hope to avoid the necessity.”

At the first meeting of the committee, a sub-committee consisting of Messrs. Fessenden, Johnson, and Washburne was appointed to wait on the President and request him to defer all further executive action in regard to reconstruction until the joint committee had taken action on the subject. The committee then adjourned until January 9, when it reassembled to hear the report of the sub-committee. The report was to the effect that the sub-committee had waited upon the President and stated to him that it was desirable to avoid all possible collision or misconstruction between the Executive and Congress in regard to the relative positions of Congress and the President; that they thought it desirable that while this subject was under consideration by the joint committee, no further action in regard to reconstruction should be taken by the President unless it should become imperatively necessary; and they thought that mutual respect would seem to require mutual forbearance on the part of the Executive and of Congress. To which the President replied substantially that while he considered it desirable that the matter of reconstruction should be advanced as rapidly as might be consistent with the public interest,

still he desired to secure harmony of action between Congress and the Executive, and it was not his intention to do more than had been done for the present.

At this meeting of the committee Mr. Stevens submitted a proposed amendment to the Constitution providing that representation should be apportioned among the States of the Union according to the number of their respective legal voters. Mr. Fessenden offered a resolution that the insurgent States could not with safety to all the rights of the people be allowed to participate in the government until the basis of representation had been modified and the rights of all persons amply secured. Mr. Stevens's proposed amendment elicited so many propositions that finally they were all referred to a sub-committee consisting of Messrs. Fessenden, Stevens, Howard, Conkling, and Bingham, with instructions to report to the full committee a proposition for an amendment to the Constitution. This report was made on January 20, and consisted of two propositions in the alternative, one of which, with a third proposition, was to be recommended to Congress for adoption. The first proposition, which was Mr. Fessenden's, declared that representatives were to be apportioned according to the respective numbers of citizens in each State, and all provisions in the Constitution or laws of any State whereby any distinction was made in political or civil rights or privileges on account of race, creed, or color should be inoperative and void. The second proposition, which was favored by Mr. Stevens, declared that representatives were to be apportioned among the States according to their respective numbers, counting the whole number of citizens of the United States in each State, provided that whenever the elective franchise shall be denied or abridged in any State on account of race, creed, or color, all persons of such

race, creed, or color should be excluded from the basis of representation.

The committee voted to adopt the second proposition, which was prepared by Mr. Conkling, as the amendment to be reported to Congress. It was known as the Blaine amendment, he having offered one like it in the House, which was referred to the committee. Mr. Fessenden was of the opinion that the proposed amendment of the Constitution should be a clear avowal of a principle and should in distinct language declare void any distinctions in political or civil rights, rather than a measure which attained the object indirectly by reducing the basis of representation if such distinctions of political or civil rights were made in the state constitutions or laws. The majority of the committee, including several like Mr. Stevens, who were regarded as more radical than Mr. Fessenden, thought it would be very difficult to prevail upon the States to accept a constitutional amendment of so unequivocal a character. In his speech to the people of Portland in 1868, Mr. Fessenden said: "The first proposition was voted down in committee because it was thought that Congress and the people of the Western States would not accept it." Other Republican members of the committee did not differ from Mr. Fessenden as to the justice of the terms laid down in his proposition, but only in regard to the expediency of adopting it at that time. The Blaine proposition was received with more favor and was adopted. Mr. Fessenden said he thought it was better to offer a plain, simple proposition which covered the whole ground, and if the people did not accept it that year, he would wait until they did, until the mass of the community was educated up to it. The idea of many of the members of Congress was to hurry and get the Southern States back, but for himself he was in no hurry to have them come

back. They went out by their own motion ; he would offer them a fair proposition, and if they did not choose to accept it they might remain outside the Union until they did. Though Mr. Fessenden was called a conservative, he was radical in his ideas of what the constitutional amendment should be. But as chairman of the joint committee he reported the proposition adopted by the majority of the committee, explained its features, and defended it against the adverse criticisms made upon it.

The feeling against the policy of the President was so intense that Congress did not wait for a recommendation or a report from the joint committee. The debate on reconstruction was opened on December 18, 1865, in the House, by Thaddeus Stevens. He laid down the proposition that under the law of nations the ties that bound the insurgent States to the Union were broken ; that the seceded States were in the attitude of conquered provinces, and their future position depended upon the will of the conqueror. Mr. Stevens pointed out the effect to be produced by the manumission of the slaves in largely increasing the congressional representation of the Southern States. Henry J. Raymond of New York, a Republican supporter of the President's policy, replied to Mr. Stevens, arguing that as secession did not triumph, the States were still in the Union and therefore entitled to immediate admission. This was just before Christmas. A few days after New Year's, when Congress had reassembled, Raymond's speech was answered by Shellabarger of Ohio.

A few letters of Senator Fessenden's at this time indicate that he was depressed by overwork and ill health.

"My life this session is, I fear, to be more laborious than ever. This reconstruction business is very engrossing. I cannot pass over the finance committee to anybody, and the fact that I have been in the Treasury brings upon me

everybody, from everywhere, who can muster any excuse for asking my aid. Add to this the large number of letters I am obliged to read and answer, and you will have some idea of what I have to do. The old trouble in my head has come back again, and I find myself at times entirely exhausted and almost despairing. But there is nothing to do but to fight it out to the end. How soon that will come I am unable to foresee, of course, but I sometimes feel as if it could not be far off."

January 25, 1866.

I must write you to-day, as the President has sent for me to come up and see him to-morrow at eleven o'clock, and it is not easy to say how long I may be detained. I made some remarks a few days since in which I undertook to define his position with regard to Congress. It was a bow drawn at a venture and had two objects, — one to allay the fears of our friends, another to suggest what should be his position. I am inclined to believe that good has been done in both directions, but I shall know more about it to-morrow.

February 3, 1866.

I have been very unwell during the week, quite bilious, besides a cold, and obliged to take some of the pills. Looking at them would not answer the purpose. Of course I have been very cross, and unable to open my mouth to any purpose. I am much better to-day, however, and hope to be quite well by Monday. . . . You see I am in better spirits, and I need to be, for our constitutional amendment is coming up on Monday, and Mr. Sumner says he shall put his foot on it and crush it. Well, the amendment is the committee's and not mine. I shall make a half hour's speech on it, and be followed by Sumner with a printed oration which he says will take two

days. He is waiting for this opportunity to show the country the difference between a great orator and a mere talker. We shall see how it ends.

February 17, 1866.

It is Saturday, and the Senate is adjourned over until Monday. I, however, have just come from a four hours' session of the reconstruction committee, in which nothing was concluded, though progress was made. I think we shall conclude to admit Tennessee in some shape. I hope so as to make a valuable precedent. Whether the President will be easy there I cannot tell; but though I will do something to keep the peace, I will not vote away one inch of the safeguards necessary in this terrible condition of affairs.

The importance of keeping up friendly relations between President Johnson and the Republicans was constantly pressed upon Mr. Fessenden, as having the great matter of reconstruction in his charge. He deprecated the violent attacks upon the President, fearing they would only widen the breach and prevent action by Congress. It was not by any means sure in January that the Republicans would be able to control a two thirds vote in both houses, without which no constitutional amendment or bill could be passed over the President's veto. He did not give up the hope that the President would act with the party which elected him until the President's violent speech of February 22, when he assailed Congress and the joint committee. This furnished the occasion for Mr. Fessenden's speech of February 23, in which he replied to the President in good temper, and then stated the powers of Congress over reconstruction. Of the speech, he writes home: —

February 25, 1866.

I was too much used up yesterday even to write a

letter, and I am not much better to-day. That long speech on Friday, made when I could hardly stand, and with such a thundering in my head that I could not tell how my own voice was sounding, utterly exhausted my little remaining strength. It is over, however, and I am much relieved.

I must stay, come what will, until our course is defined. No excuse for leaving my post now would be satisfactory to the country. How heartily I wish myself a nobody.

I should like much to see you now, dear cousin, and all the rest of my dear friends, but I am so dispirited, so weak, and so cross, that it would give you little pleasure to see me.

It is doubtful if Mr. Fessenden would have spoken upon the political questions before Congress until some recommendation had been reported from the committee on reconstruction, but for the debates on the bill to enlarge the powers of the Freedmen's Bureau reported by Mr. Trumbull and the Civil Rights Bill introduced by Wilson. These measures led to exhaustive debates in January. The Freedmen's Bureau Bill particularly excited the ire of the Democrats. Saulsbury of Delaware denounced the Republicans as having come into power when the country was at peace and with having inaugurated a policy which disrupted the Union, which brought on the civil war and burdened the country with a debt of \$4,000,000,000. He asserted that if the pending bill was passed, which he declared was a bill that would impose negro suffrage and which made the negro the superior of the white man, the effect of it would be to restore the Democratic party to power in Congress. Mr. Hendricks attacked the bill not only on constitutional grounds but

especially for the great expense it would impose upon the government. In his reply to these speeches, Mr. Fessenden had two objects, one to allay the fears of Republicans and the other to suggest what should be the President's position.

He began by alluding to the prophecy of the senators from Delaware that the Democrats would soon return to power if the Republicans proceeded in their system of measures, answering with good-humored sarcasm that he would not hesitate at doing what was right even if it was followed by such a calamity. The innumerable evils that would follow the return of the Democrats to power might well make one pause. Perhaps he might hesitate at a system of measures which would bring about such a consummation. But he could not think such a calamity was so near that the apprehension of it ought to influence their action on proper measures.

"We were at the close of a great war brought upon the country by the action of the Democratic party, the mass of which was in the South. There were many individual Democrats as good patriots as anybody, but he would say that but for the support which the Democratic party gave the South in its measures of aggression he did not believe the war would ever have occurred. If the war was brought on by the South, and as a consequence they are to be benefited even in money appropriations, it is not for them to complain. They cannot complain of Congress if it takes measures to set things right; and if the great Democratic party is in any degree responsible for it, it cannot complain of measures which are necessary at this time." He was happy to make a distinction between individual Democrats, the rank and file, and the acts of that party before the war. The great mass of Northern Democrats served their country bravely in the most manly and

patriotic way. They would not follow their leaders in the Democratic party. He made these observations in reply to the senator from Delaware.

A great many threats were heard of the coming overthrow of the Union party. Perhaps that great party would commit errors and the people would desire a change. That would be natural. The possession of power made men careless, and it was a good thing for a republic to change its rulers ; but he hoped the Union party would remain in power long enough to set things right. The Republicans would do what they could for the welfare of the country, and would not be frightened by the idea that their reign was to be short.

The senator from Delaware had renewed his charges, so often heard, of violations of the Constitution. It had been the cry for five years. Could gentlemen flatter themselves that they had produced any effect upon the public mind or had frightened anybody? Were they any stronger for it? It did not appear so. It looked as if the people did not care much for what they said. The people heard it, but let it pass as a sort of necessity.

The bill met a necessary and inevitable result of the exhausting war carried on by the South. It was found necessary to emancipate the slaves, and slavery no longer existed. The millions of colored people were thrown without protection upon the charities of the world in hostile communities angered at the freedom of their slaves. They were so freed because the country was compelled to avail itself of their services, as well as to deprive their masters of the material aid they furnished them in the contest against the Union. Thus the slaves were found when arms had disappeared.

Now, could any one say that a great people having used these former slaves, having deprived the enemy of

their aid, would now throw them upon the world without protection, exposed to persecution because there was no provision in the Constitution by which Congress was authorized to feed and clothe anybody? We had a written constitution, and in spite of the senator from Delaware we tried to adhere to it. There might have been some necessary violations of it. That came from circumstances for which no previous provision had been made. But gentlemen must reflect that as a part of the constitution, written or unwritten, of all governments, stands the law of nations, necessary from the relations which all communities bear to each other and from the contingencies to which they are exposed. That being the case, they must accept the consequences which follow from it.

The country had been plunged into a war almost the greatest of modern times, involving vast results. Were they to be told that if it brought about a state of things not found in the written constitution those necessary results were to be shunned and not noticed in any way? that their affairs, as connected with that war, were not to be closed up under the same law which governed this nation and which governs all nations, while the war continued? If that was so, what a powerless people they were. The country could carry on a great war, but the moment the clash of arms had ceased it became powerless to provide for the necessary results of that war, because a case not foreseen was not provided for in the written constitution.

The moment they, as the Congress of the United States, found themselves in that condition as a necessary result of the contest, gentlemen who disagreed with them in political views told them that they were working against the Constitution, which gave no power to feed and clothe a man, woman, or child. He accepted no such doctrine.

The power must exist to provide for the results of the contest which had been waged. All the world would cry shame upon the country if it was not done.

Congress had put it upon the War Department to take care of these people who were part of the war. This duty was properly connected with the military department of the government. Though military operations in the field had ceased, the country was not thereby relieved from what remained to be done to carry out to the full what ought to be accomplished. They could not divest themselves of this responsibility even if they desired it.

It was now necessary to increase the power of the Freedmen's Bureau, and they were met by the outcry that they were taxing the white people to support the blacks. He could see little difference between money and lands when it was a question of public property. What was in the Treasury and what might come in were equally valuable. He would say to gentlemen of the South that they and their Northern sympathizers brought this trouble upon the country, and the Republicans were trying to do the best they could with the results of the wickedness of the South and its allies.

The real question was not one of expense, but whether this thing ought to be done. Was nothing to be done for these colored people thus thrown upon the world, and the refugees who had been driven from their homes? The idea of purchasing land had at first struck him unfavorably. But if they held that in an unexampled state of facts they could not go beyond the rules adopted for their action in time of profound peace, they would render the government powerless. They had learned that the government had much ampler powers than they had supposed. The argument of money and the argument of constitutionality did not reach him. If necessary he might

find the power under the amendment abolishing slavery. There was nothing in the bill which should trouble anybody. He was satisfied the constitutional power could be found when the necessity of the thing was apparent and it must be done by the government as a consequence of things that it was compelled to do and had a right to do. Otherwise it was a government without the necessary powers to effect its own objects.

He did not consider it proper to say anything upon reconstruction until the committee which had the subject in charge had made known the results of its deliberations. Some gentlemen seemed anxious to discuss the matter before they had the benefit of the facts and conclusions which the committee might find. That was a course which each senator must decide for himself. There was another thing upon which he desired to say a few words.

Able senators on both sides had talked a good deal about the policy of the President and the policy of Congress. It would be a point for gentlemen on the other side of the Senate to make the people believe there was likely to be a collision between the President and those who elected him. He begged gentlemen not to flatter themselves with such an idea. Even if there was a difference of opinion as to how a great work was to be accomplished, it did not follow that there was to be a collision. It was true that gentlemen hung about the President and insinuated that those who ought to be his best friends did not support him. They paid the President a poor compliment. Did they suppose the President was not a man of fixed opinions and did not know his own friends?

As commander-in-chief, the President had the power, and it was his duty, to control the rebellious States, to preserve order and prevent anarchy; and he could appoint provisional governors, and give those States aid

in forming constitutions and regulating their domestic affairs; and he could also say to them that when they were fit to be left to themselves *he would withdraw the army*. He, Fessenden, might have done differently, but perhaps not so wisely as the President. The President had the right to act as he did, and nobody could complain of it. The President might think those States were ready to send senators and representatives to Congress. He, Fessenden, thought they should come at the earliest moment they could with safety. The President and he might differ as to the proper time.

No man had a greater respect for the Constitution and the coördinate branches of the government than the President, and he would be the last man to complain of Congress for acting according to its judgment so long as all were agreed that the States should be restored at the earliest possible moment to their position in the Union.

The talk about the President's policy amounted to nothing. Any danger to the country would come from extremes. Congress was doing what was its right and duty to do, and that was, before taking a step which might affect the welfare of the country for all future time, to deliberate calmly and patiently upon what it was best to do. Congress would act as fast as it could with safety. But it would not be hurried beyond the dictates of its judgment.

It was not to be expected that the people of the late Confederate States would feel kindly towards the North. Time was necessary to overcome prejudices and to soften animosities. He hoped the time would soon come when all the States would be represented in the Senate. He was as much averse to putting a stigma upon any portion of the people as the senator from Kentucky.

Nobody should be frightened or hurried by talk about

policy or collision. There was magnanimity and patriotism at both ends of the avenue. Congress should go on and pass the series of measures they had decided upon and carry them into execution. Gentlemen would make an outcry about their unconstitutionality and threaten the growth of the Democratic party. The Republicans must be patient, meet that calamity when it came, and bear it with the best grace possible.

When this speech was delivered there was still a hope that the President would act in concert with Congress. It was not until a month later that he broke with the Republicans. Mr. Fessenden's object was to conciliate the President, to draw him towards the party, and to prevent the Republicans from attacking him. He had several confidential interviews with the President, who expressed himself in full accord with him as to the method of dealing with the insurgent States. Just at this time the President asked him to spend a Sunday forenoon in discussing the situation. Mr. Fessenden came away with the conviction that the President would act with Congress and there would be no rupture. The next morning Mr. Stanton told Mr. Fessenden that while at church the day before he became so anxious over the political situation that he left the church to find him and urge him to again confer with the President, adding there was no senator in whom the President put so much confidence. Mr. Fessenden then related his Sunday interview to Mr. Stanton, who expressed great relief at the prospect of harmonious action. This was on Monday morning. On that afternoon the President, in an interview with some of the supporters of his policy, expressed opinions utterly at war with his opinions expressed the day before to Mr. Fessenden. It appeared as if in the morning he felt the importance of acting with Congress, and recognized its

authority to impose conditions upon the insurgent States, while in the afternoon, under other influences, he became belligerent, obstinate, and egotistical, expressing opinions which delighted the Democrats and the South. Mr. Fessenden's speech must be judged from his purpose to incline the President to act with the Republicans. Still later, in his speech of February 23, in reply to the President's attack on Congress and the committee, while he expressed his views in plain language he treated the President with respect. It was impossible, however, to restrain the extremists of the party. They denounced the President with great bitterness and he retorted with equal violence. The possibility of keeping the President and the Republicans together soon disappeared in the increasing excitement and anger.

When Mr. Johnson was nominated for Vice-President, Mr. Cameron wrote to Mr. Fessenden that if Mr. Lincoln should die he would much prefer a Northern man to succeed him. The event Mr. Cameron had feared had now come to pass. The President, whom the Union party, largely Republicans, had chosen, now diverged in opinion and policy from the party which elected him, taking the ground that the eleven insurgent States should be at once restored to their relations with the Union, and that he alone could decide when the States could resume their relations with the government. He supported this claim on the theory that constitutionally they were still States in the Union. Against this, the Republicans in Congress demanded that before the rebel States should share in the government, such amendments to the Constitution and such laws should be adopted as would change the basis of representation according to the condition of the South consequent upon the abolition of slavery, would provide against compensating the slaveholders for the loss of

their slaves, would place the public debt and the public pensions beyond the power of repudiation by the South, and would forbid the payment of their debts incurred in and for the Rebellion.

No Congress was ever called upon to consider problems of greater magnitude and difficulty. These questions would have been momentous enough with a President and Cabinet aiding and sustaining Congress. But with a hostile President and a Cabinet in the main unfriendly to the congressional view, it looked as if all the good results from the overthrow of the Rebellion might be lost. Fortunately for the country the heroic and indomitable Secretary of War stood with Congress. It is to the honor of the Republican members of this Congress and Northern people that they remained firm in their determination to secure the results of the war and to place the rights of every citizen upon a sure foundation. Mr. Blaine declares that "no unmanly efforts to compromise, no weak shrinking from duty, sullied the fame of the great body of senators and representatives. Even the Whig party in 1841, with Mr. Clay for a leader, did not stand so solidly against John Tyler as the Republican party under the lead of Fessenden and Sumner in the Senate and of Thaddeus Stevens in the House now stood against the administration of President Johnson."

The question uppermost in every mind was the adjustment by constitutional amendment of the basis of representation of the South in Congress. Should the blacks be counted and thus the political power of the insurgent States be increased? Mr. Fessenden's idea was to declare by a constitutional amendment all civil and political distinctions on account of race or color to be inoperative and void, and then to hold the insurgent States under military rule until they should, by the voluntary action of the ma-

jority of the white race, accept this amendment and present themselves to Congress with proofs of their loyalty and with equal laws for the blacks.

On the 23d of January, 1866, the joint committee on reconstruction reported to the House the proposed amendment to the Constitution. It based representation on population and provided that if the elective franchise should be denied or abridged on account of race or color, the representation should be proportionately diminished. In closing the debate on this proposition in the House, Mr. Thaddeus Stevens said that the other proposition (the one proposed by Mr. Fessenden declaring all distinctions in political or civil rights on account of race or color to be inoperative and void) was dear to his heart, but he did not believe it could be carried in Congress or the States. It passed the House on the 29th of January, and came up in the Senate on the 31st. Mr. Sumner had already given notice that he should put his foot on it and crush it. Mr. Fessenden, as chairman of the committee, was entitled to open the debate, but he had not been well for some days, so he yielded the floor to Mr. Sumner, who delivered one of his most elaborate orations against the amendment. His speech consumed two days.

Mr. Blaine, in his "Twenty Years of Congress," says of Sumner's speech that "it may be regarded as an exhaustive and masterly essay unfolding and illustrating the doctrine of human rights. As such it remains a treatise of great value, but as a political argument, calculated to shape and determine legislation in Congress, it was singularly inapt. Mr. Fessenden replied to Mr. Sumner in an elaborate speech in justification of the amendment proposed by the committee. His argument was marked with all his peculiar ability, and the two speeches contain within themselves the fullest exposition of the difference

in mental quality of the two eminent New England statesmen who were so long rivals in the Senate of the United States. Mr. Fessenden was above all things practical. He was unwilling at any time to engage in legislation that was not effective and direct. He had no sympathy with mere declarations, was absolutely free from the vanity so often exhibited in legislative bodies of speaking when there was no question before the body for decision, or of submitting resolutions merely in response to popular sentiment without effecting any valuable result. In short, Congress was for him a law-making body. It met for that business, and, so far as he could direct its proceedings, Mr. Fessenden, as chairman at different times of leading committees, held it to its work. He was felicitous with his pen beyond the rhetorical power of Mr. Sumner, though not so widely read nor so broad in general scholarship and culture."

On the 7th of February Mr. Fessenden explained the amendment proposed by the committee and replied to the objections which had been made against it, saying, among other things: "There had been a great war, slavery had been overthrown. There were provisions in the Constitution having reference to slavery, establishing the basis and proportion of representation. These provisions had become inoperative and should be revived. It was said that the Constitution took care of itself, and the former slaves having become free, now all persons were alike and no change was necessary. But it must be remembered that slavery had just been abolished; that the mass of those who had been slaves were ignorant; that they had been made free against the will of the rest of the population in those States where slavery had existed. Men did not willingly give up that which was dear to them. It was fair to suppose that, if the Constitution was left

unchanged, the power in the States would be exercised to deny all political rights to those who were so lately considered unfit to exercise them. Such a feeling was contrary to the principles of republican government. The result would be that in a portion of the States all the people would be represented, but a part only would exercise political power. Then the question arose whether Congress ought not only to see that all free men had all their rights, but that the temptation should be removed of keeping up a system which would be injurious to the State and tend to an aristocracy.

The simple way of doing this was a proposition like that of the senator from Missouri (Henderson), doing away at once with all distinctions of race or color in all civil and political rights. That would go to the root of the matter. Could he legislate upon the subject he would prefer a distinct proposition in the Constitution that all provisions in the constitution or laws of any State, making any distinction in civil or political rights, should be unconstitutional, inoperative, and void. The committee did not recommend it, however, and he stood as the organ of the committee, approving its work, and not disposed to set up his judgment so exclusively as to denounce what better men had recommended.

There were but two propositions to be considered. One was to base representation on votes. The other was the amendment recommended by the committee. The senator from Massachusetts had, at the beginning of the session, offered an amendment basing representation on voters. Did not that leave the power to the States as it existed there now? The object of his proposition was the same as the amendment of the committee, to limit representation according to the extent of the suffrage, and in that way to hold out an inducement to the States to extend

the right in order to increase their political power. His proposition was in effect precisely the same as that of the committee. Yet he talked of the committee's proposition as a compromise of human rights. If that was a compromise so was the senator's, for it did not move an inch further towards accomplishing the purpose they all had so much at heart. The proposed amendment of the senator from Massachusetts was founded on the same idea as the one before the Senate, and his proposed bill provides no sanction, no penalty, no machinery, and merely reenacts the Constitution in language not half as forcible.

One objection to basing representation on voters was that it departed from the established principle of the Constitution which founds representation upon population. It would also be unequal, giving the new States more representation than the older States. It would also be an inducement to extend the ballot to an unreasonable extent for the sake of political power. Those States which, for good reasons, had disfranchised rebels would be tempted to restore the ballot to them. The committee saw so many objections that they came back to the principle of the Constitution basing representation upon population alone. The result was the proposition recommended by the committee, which provided that whenever the elective franchise should be denied on account of race or color, all persons of such race or color should be excluded from the basis of representation. This left the matter where the Constitution placed it, and it was equal in its operation. It accomplished indirectly what they had not the power to accomplish directly. It was better to govern men by their interests than by force. Even if the resolution which he preferred could be passed, he was not certain that all the good expected from it would follow. The Constitution, as it stood, said that all persons should be

counted to form the basis of representation. They proposed to alter that to avoid a great evil and accomplish a great good. The question was, How could they amend that in any way to make it acceptable and accomplish the results at which they aimed?

It was not his duty to legislate about abstractions, but to do what was best for the good of the whole. The proposed amendment said to all the people of the United States that they should be represented in Congress, but if they did injustice to any portion of the people they would be shorn of political power to that extent. He considered that a great principle, and worth something. Men loved political power. By the amendment they said to them their political power should be in exact proportion to their action in the right direction. In time they would see it was for their interest to educate the recent slaves, make them useful citizens, and increase their political power by giving them the ballot. Thus much would be gained; and if he could not get more, he would take this. He did not see that presenting this proposition to the States deprived Congress of any power of legislation upon the subject. There was no such thing as a renunciation of power by Congress. Whatever power it had over the subject it would continue to have. The resolution simply said to the States, You have the power over the subject of representation, but if you exercise it in an unjust way certain consequences shall follow. He was in favor of an additional resolution giving Congress the power to legislate upon the subject in full. The senator from Massachusetts would not agree with him because that senator held that the power existed now. He, Fessenden, wished the power did exist. The fathers did not consider that the obligation to guarantee to each State a republican form of government extended so far as to give Congress the

right to examine state legislatures. The guaranty clause of the Constitution secured by the power of the United States a republican form of government to every State in the Union. But did that give to the United States the power to examine every statute passed by a State which had a republican form of government to begin with and see whether it conformed to it, and if it did not, to order its marshals and its courts to interfere and set it right, and if the court was resisted to raise an army and see that its laws were in accordance with it? He did not think it went as far as this.

He understood the senator from Massachusetts to maintain that, under the guaranty clause to secure a republican form of government to each State, Congress had the power to legislate to see that no State whatever passed laws which deprived free men of certain inalienable rights. Suppose they took back the States with an act of Congress providing that everybody should have his rights under the Constitution? After the States had come in they might repeal the act, and then what would become of the guaranty clause? The senator had offered his proposition as a substitute for the amendment from the committee, which he said handed the colored people over to their late masters bound hand and foot. But if they provided a safeguard by inflicting a loss of political power upon the States if they abused the rights they now had, were they handing these people over to their masters as the senator had described?

Now the senator from Massachusetts had proposed a bill as a substitute for the committee's amendment which provided that in order to carry out the guaranty of a republican form of government and to enforce the prohibition of slavery, there should be no oligarchy, aristocracy, or monopoly, and no denial of civil rights on account of

color or race. He, Fessenden, could not see any good in providing by law that the provisions of the Constitution should be enforced without saying in what manner or by what machinery it should be done. The Constitution did not now authorize oligarchies or aristocracies. Why reënact the Constitution and put it in a bill? How was that a remedy? It was of no practical avail. Were they not as safe under the Constitution as under an act of Congress? There was no use in it. It was like the political travesty of a law argument by an eminent lawyer of the senator's own State, which ran in this way: —

“Let my opponents do their worst,
Still my first point is point the first,
Which fully proves my case because
All statute laws are statute laws.”

Mr. Fessenden said he had examined the senator's (Sumner's) scheme because the senator had contended that the proposition of the committee was an outrage and an abandonment of moral principle. What force was there in his remedy? None whatever. It provided nothing. It was nothing but words which might be repealed to-morrow. It reënacted the Constitution. Then it was left to float upon the waters and take its chance with the adverse currents which might strike it.

As the senator had made a most violent attack upon the proposition from the committee, he had examined his remedy to see what there was in it, what rights it secured, what evils it prevented. It did absolutely nothing. It was of no consequence to human rights to put it on the statute book. It had no sanction and no penalty. It was a mere legislative declaration.

Mr. Sumner: “That is all I intended.”

Mr. Fessenden: “That is all the senator intended! Then where is his protection of human rights? What

good had he done to him who was once a slave? The committee recommended something more than words, calculated to reach far into the future. The senator proposes to strike it out and substitute a mere legislative declaration."

In discussing the proposed amendment Mr. Fessenden had consumed more time than he had intended, and this, coupled with the fatigue of the long speech, caused him to omit a discussion of the power of Congress over the whole subject of the reconstruction of the insurgent States. Much regret was expressed at his decision, as many Republicans wished to hear him discuss the positions taken by Senators Johnson and Cowan.

In the debate of February 21 on the question of *considering* the resolution from the joint committee not to admit senators and representatives from the insurgent States until Congress should have first declared their States entitled to representation, Mr. Cowan led off against it. Mr. Fessenden replied to him.

The resolution was called up for consideration by Mr. Fessenden on February 23. Senator Sherman opposed its consideration, saying that it had just passed the House under the excitement of the President's veto message; that the Senate could not then act in the deliberate tone necessary for the discussion of this grave question; that it was a mere declaration of political opinion; that it would be wiser to let it lie over for a few days; that all the business of the Senate ought not to be postponed for this resolution for the purpose of getting into a political wrangle with the President; and it would be wiser to go on with the consideration of the constitutional amendment.

Mr. Fessenden said that he had given notice two days before of his intention to call up the resolution that day. He would not have done so but for the great importance

of the question. The senator from Ohio had designated this as getting up a political wrangle with the President. "When the President tells Congress it is transcending its authority and that it has nothing to do in the way of judgment upon the great question of reconstruction, that was hardly a proper term to use."

There had been no effort to get up a political wrangle with anybody. He, Fessenden, respected the President. He was not influenced by any excitement. He had reflected upon the great questions at issue, and was ready to express his opinion. The sooner the judgment of Congress was expressed, the better it would be.

There was nothing more important than to settle the question whether the Senate and the House of Representatives of the United States had or had not something to say in relation to the condition of the late Confederate States, or whether it was proper to admit senators and representatives from them. If the President was right in his assumption that Congress had nothing to say, the men who came there with proper credentials ought to be admitted at once, and not to be kept waiting outside the door. On the contrary, if they had something to say about it they should assert their power before the country and before they considered the constitutional amendment. *He* was laboring under no excitement about the matter, and he did not think other senators were.

After some discussion by Sherman, Howe, and Doolittle, the Senate voted to consider the resolution. Before proceeding with his remarks, Mr. Fessenden asked to have it read. Besides the feeling caused by the veto of the Freedmen's Bureau Bill, there was the excitement caused by the President's speech to his fellow citizens the night before, when he assailed the reconstruction committee and charged Congress with revolutionary proceedings.

This attack upon the reconstruction committee made Mr. Fessenden feel that it was necessary to vindicate its appointment and state the principles of public law which, in his opinion, gave Congress the power to impose such terms upon the insurgent States as would provide safeguards for the future and protection for all the people.

"Charges," he said, "had been made against the joint committee on reconstruction, and he felt like vindicating it and the action of Congress in reference to it, and he would ask the clerk to read from a newspaper a report of part of the speech made by the President on a recent occasion to his fellow citizens." The clerk then read the portion of the President's speech which charged the committee with being a central directory, and accused Congress of creating almost another revolution.

The President, said Mr. Fessenden, could hardly have considered with care the nature of the resolution under which the committee have been acting. He then gave a history of the resolution as it came from the House and how it was changed in the Senate. It was simply the appointment of a joint committee in the unexampled condition of the country, after a war of four years in which eleven States were engaged against the government, at the first meeting of Congress after hostilities had ceased, to inquire into the condition of those States and report whether they were entitled to representation. That was the duty of Congress. It lay at the foundation of the whole question of the admission of members, whether the condition of those States was such as to render the admission of those members safe. The President himself had said in his speech "that when those States had complied with the Constitution, when they had given sufficient evidence of their loyalty and that they could be trusted, then let peace and union be restored." Fessenden said,

he would say the same. There was no difference on that point. The President said when they had complied with these conditions they should be admitted. The President made that preliminary to the question of examining the credentials. It seemed, then, that somebody should inquire into their loyalty and obedience to the laws, and who should do this but the Congress of the United States? When Congress appointed this committee what did it do except to carry out precisely what the President had laid down in his speech as preliminary to the question of admission of senators and representatives. But the President called the committee a central directory. Was it anything more than the mere servant of Congress, like any joint committee? The reason of its appointment was that neither branch should without sufficient information take a course from which the other branch would differ and thus bring about a collision between the two bodies of Congress. Was it, then, quite fair to designate it as a central power sitting here to get up a government of a few against the government of the many? He never understood himself to be anything but the servant of Congress, and if the committee had not been able to report, it was only because the question was so important and involved so many considerations.

If the several points suggested by the Executive were preliminary to the admission of members from those States, the question arose, Who was to exercise that power of judgment? If a senator presented himself here, did it belong to the Senate to ascertain if those conditions had been complied with, or did it belong to the President? This brought him to consider the veto message. He was not much attached to the bill that was vetoed. In some particulars it did not meet his approval. He had yielded his objections and voted for the bill. If the President

had confined himself to his objections to the bill, he might have sustained his veto. But the President had given other reasons which, in his own judgment, made it impossible for any member of Congress, with due respect to himself and the rights of Congress, to vote otherwise than to sustain the bill. He did not mean to appear to indorse what the President had said, which was that in his judgment Congress as then organized had no right to pass any bill affecting the late Confederate States while they were not represented in Congress. The President asserted that Congress had no moral right to do it. If that was a correct position, Congress had no right to pass any law in relation to the States that had been in rebellion against the government for four years until their senators and representatives had been admitted to Congress. The President argued that they were bound to admit them on their say so, and after that they might legislate. He could not assent to such a proposition. This position made it impossible for him to sustain the veto, for it would prevent Congress from passing any bill in relation to the Southern States.

Mr. Fessenden then quoted from the message which vetoed the Freedmen's Bureau Bill and from the speech, to prove that the President took the ground that Congress could judge only of the election and qualifications of members. The President said substantially: "I have come to the conclusion that these States are in the Union to be represented in the councils of the nation. I admit they must show their loyalty, but I am to decide whether that has been done, and when I have decided that, then Congress may take up the question of the elections, qualifications, and returns of members who present themselves, and have nothing to do but to settle the question whether they come within the description of the Constitution."

If the President meant that, the issue was before Congress. He could not believe himself faithful to the great interests committed to his charge if he yielded a moment to the idea that anybody but Congress had the right to settle preliminarily the question whether the States were entitled to have senators and representatives or not.

"Sir," said Mr. Fessenden, "we should be yielding everything, we should have no power left, we should be less than children, we should hardly be entitled to call ourselves slaves, if, upon a question upon which the very existence of these bodies, the Senate and the House, may depend, the question of whether a State or a body of men or an organization is entitled to be represented here is not for us to settle, so far as those proposed members are concerned, without advice or dictation from anybody.

"Looking, therefore, at these arguments in the message as indicating that the President would approve of no legislation affecting these States while they were unrepresented, and that the Senate had only the power to see whether men coming to the Senate had proper credentials from somebody, leaving the question whether those States had a right to be represented to be settled at the other end of the avenue," he could not sustain that message without sacrificing all his self-respect, and all the rights and honors of the body of which he was a member. Influenced by these considerations, the committee proposed the resolution now upon the table. He thought it necessary that the resolution should pass; that Congress might assert its own rights and its own powers; that there might be no mistake in the minds of the people, or in the mind of the Executive, that upon this subject Congress would exercise the most full and plenary jurisdiction; that Congress, and not the President, will decide whether these States

obeyed the Constitution, whether they had fitting relations, whether they were loyal, as preliminary to their admission.

Situated as the country was, he deemed the present question as transcending in importance the pending constitutional amendment. When the States came back into Congress they would come as rulers, and if somebody else than Congress was to ascertain whether the States were in a condition to be represented, all Congress had to do when a State went out of the Union and made war upon it was to legislate, and when such State had been conquered and was ready to come back, all Congress then had to do was to inquire of somebody else if the State was in a condition to come in and take the men who came there with credentials.

Mr. Fessenden said he had been proud of his position as senator; he had supposed senators and representatives were sent to guard the interests of the people; that the protection of this government was to be found in Congress; that the essential powers of the government rested in the faithfulness of senators and representatives and in their power to judge of what was necessary to constitute their own bodies. But if they were confined to a mere question of credentials they were nobodies. They might be overwhelmed at any time and cease to be a check upon the Executive. He believed the President to be a patriotic citizen; that he would do nothing to injure the Constitution, but he had spoken unguardedly, and far beyond what he would find he could stand by. His message, however, must be treated as if it was intended. It was part of the record. He would treat him respectfully. But when he advanced opinions and laid down principles which struck at the existence of the body as a power in the government, he must enter his solemn dissent and call upon Congress to assert its own rights.

He wished to express his views briefly upon the great question of reconstruction. During the four years of war he had made no speeches upon this question, as there was nothing then to reconstruct. The proper time had now come to consider the question. The President began to consider it before Congress. He thought it would have been better had he left the insurgent States under his power as commander-in-chief, and waited until Congress had assembled. The President chose to do otherwise, and he would not complain of him. Up to a recent period it was declared by the President that what was done was only an experiment. He, Fessenden, had supposed that when Congress met the question of reconstruction would be in their hands. He held it was the right and duty of Congress to consider it, and he wished to lay down a few simple propositions with reference to the question.

The country had been in a state of war, and the question was, What were the consequences of successful war when one nation conquered another? There was nothing better established than the principle that the conqueror had the power to change the form of government, to punish, to exact security as he might think proper, and take entire control of the conquered people. Congress had passed a resolution that we did not wage a war of conquest, but if conquest must come in order to accomplish our purpose, it was not our fault. That resolution was a compact with our own people, and the insurgent States could have no benefit from it.

The consequences of a civil war were precisely the same, so far as the parties were concerned, as in the former case. If the war was carried on according to the principles of the law of nations, the same rights were obtained by the conquerors as in the case of an international war. Those propositions were beyond dispute. The question then

arose, Did our form of government change the inevitable legal consequences of a civil war? Was a civil war, living as we did under a written Constitution, different in its consequences, on account of that Constitution, from a civil war in any other nation? It was very manifest to him that it was not. This brought him to consider the argument of the senator from Maryland (Reverdy Johnson), when he said that Congress had no authority to carry on a war against a State; he would reply that the Constitution never contemplated a civil war, but it provided means to quell it by giving power to Congress to raise and support armies, without stating for what objects those armies were to be used. An insurrection is something far less than a civil war. The provision in the Constitution for calling out the militia to suppress insurrection had reference simply to the militia. It meant that Congress should have power to employ the militia in an emergency, but it did not limit the authority of Congress to suppressing insurrections and repelling invasions. Now, since a civil war under the Constitution was attended with all the consequences of other wars, it resulted that a State might be swept out of existence by a civil war. It was a necessary consequence, if the law of nations existed among us and we were bound by its provisions. The government could say a State had forfeited its status. It might impose punishment, and, if necessary for its security, it had a perfect power to prevent a State from resuming its position.

Men had been fond of saying "once a State, always a State." That was not true. States might live, and States might die, they might continue to be States, but not States in the Union. To be States in the Union they must have a Constitution and fitting relations to the government. A State must be able to perform its obligations to the United States. It must be acknowledged by the govern-

ment. Its own government must be acknowledged by Congress, and have the requisite provisions to connect it with the Union. If the ligature was broken, it ceased to connect itself with the government. The form of government which bound the Confederate States to the Union had been destroyed. Their people had been in rebellion. Before they could connect themselves with the government they must be recognized. They must have constitutions which connected themselves with the government. They must be in a position to discharge their duties, and they must be readmitted.

The question had been argued as if Congress had nothing to say about it, as if those people were back again simply because they had made state constitutions. How was that known? What proof was there of it? The Constitution they once had had been obliterated. It was gone. When they came here after having been disconnected with the Union they must satisfy Congress that they had done what was necessary to enable them to perform their duties. If those States had once been disconnected and had ceased to be States in the Union, they must apply to Congress and furnish the necessary proofs that they were in a condition to claim their rights in the Union. They should come to Congress by their legislatures or conventions, present their constitutions for examination, and ask that their representatives be admitted under them.

Mr. Fessenden then referred to the short time that had elapsed since the war closed. The rebels laid down their arms in April. Congress did not meet until December. There had been four years of bloody, exhausting war, a war distinguished by most savage hate on the part of the enemy. As soon as Congress met, certain men claiming to be representatives and senators presented themselves in Washington. It was not ninety days since Congress

met, and they were told that they were perpetrating gross injustice because these men were not already in their seats, and that legislation was good for nothing without them. It was a remarkable fact that during this very time the President had not withdrawn the suspension of the writ of habeas corpus, and was occupying those States with the army, because the generals said it was unsafe to withdraw it. Yet Congress was denounced because within ninety days it had not admitted those senators and representatives to govern themselves and govern the North. It was utterly unreasonable to suppose that questions of this kind could be settled in a hurry.

He admitted that it was best for the country to admit those States as soon as it could be done with safety. Congress was exercising a power not contemplated by the Constitution, and the exercise of such powers was dangerous. It was for their own good as well as that of the insurgent States that the present condition of things should be terminated as soon as possible. But while he admitted that, he wholly denied the doctrine that Congress ought not to deliberate on the subject in its own time, and while doing so it should not be denounced as creating a central power, and be held up to the country as perpetrating injustice.

Such complaints were without foundation. Time enough had not yet elapsed for any one to say that those States were kept out for party purposes. No one as yet knew what had been done, what evidence had been taken, or how far the investigation had proceeded. Their first duty was to provide for the safety of the people, and pass such constitutional amendments and such laws as they thought were necessary, and impose such conditions as they thought proper, before admitting those senators and representatives. That was no more than the President had

done. He had refused to recognize them unless they abolished slavery, repudiated the rebel debt, and did some other things. Had not Congress the same rights as the President? If he could impose conditions, could not Congress do so? But he, Fessenden, would not impose any condition which would degrade them, or which would not leave them on an equality with all the other States.

This speech was of great length, and the need for quickness of narrative makes it undesirable to quote it here any more fully. The debate continued for several days until it was closed by Mr. Fessenden in a long address, on the 2d of March, advocating the adoption of the resolution.

The resolution not to admit the representative from the insurgent State at present was adopted by a vote of 28 to 18, not a two thirds vote; but as this was a resolution of the two houses it did not require the approval of the President, nor a two thirds vote to pass it over his veto.

The Senate then resumed the debate on the proposed constitutional amendment. Mr. Sumner delivered against the proposed amendment a second speech, almost as long as his first. On March 29 Mr. Fessenden closed the debate. His comments upon the arguments of Hendricks and Buckalew caused considerable laughter, but they were rather introductory to a more lengthy criticism of some of Mr. Sumner's positions. At the conclusion of his speech Messrs. Hendricks and Buckalew came over to Mr. Fessenden's seat, and after a little good-natured raillery said they would forgive him what he had said about them in consideration of the reply he had made to Mr. Sumner.

He writes of this, March 10, 1866: —

“Another hard week's work is over, and spite of all, I find myself improving. Yesterday I made another two hours' speech, and had the pleasure of ‘pitching in’ to

several people. I think it did me good. Knowing that the constitutional amendment was to be lost, I was not troubled by prudential restraints. I believe everybody was gratified with the whipping I gave Sumner, for his speech was atrocious, and disgusted even those who voted with him, and particularly his colleagues. I regret exceedingly that the amendment was lost, for we can get nothing so good. If we carry any other through Congress it will not be adopted by the States, and the blacks are left without hope. This is owing to ——'s folly and wickedness. . . . So be it."

May 18, 1866.

I am yet very weak, and shall, I fear, continue so until I get a chance to rest. I shall pass over the reconstruction debate to somebody else, as I am utterly unable to undergo the fatigue.

May 26, 1866.

Don't be frightened at seeing that I was unable to undertake the constitutional amendment. I am not sick, but my physical strength is entirely unequal to any continued effort of mind or body. An hour's work or a half hour's will exhaust me, and as I have yet much to do, which nobody else can or will do, I am obliged to spare myself now. The truth is that I have not found a moment's rest since I got out — and the consequence is continued debility. I have no doubt a few weeks at home would restore me entirely; and if I could not work in my garden, the sight of it would do me a great deal of good.

I expect to have an interview with Mrs. Jeff Davis this morning, as at her request I appointed ten o'clock to see her. But as I see by the papers that she has accomplished her object, viz., to give Jeff the run of the Fortress, I presume she will not come, which will be a great relief to me, as I dreaded the interview.

Mrs. Jeff came in before I concluded the preceding sentence, and stayed an hour and a half. Since then I have been to see the President. He says Jeff will die if he stays in the Fortress, as he is exceedingly reduced, and a slight attack would carry him off. She wants him to go to the mountains in Virginia, on parole, and desired me to recommend it. Of course I could n't do that without consulting the President, and told her so. She is a terrible talker, and presents everything in the worst light, and will do much harm. I don't know but the best thing would be to let him out and shut her up in his place. It would be a bad thing to have him die on our hands. She would tell everybody that he was starved to death.

Pray take good care of the garden. I hope to get home before the roses are all gone.

Let us recur now to the debate.

Mr. Fessenden observed that some ground had been taken by senators which required a short reply. Since he had been in public life he had considered it proper statesmanship in aiming at a valuable object, if it proved to be unattainable, to get as much of it, and come as near to it, as he could. It was in this view that the committee had recommended the proposed amendment. It was not defective in principle, but it came short of what ought to be attained, etc.

The senator from Massachusetts had remarked that there were two kinds of parliamentary debate: one was a reply to a previous speaker with personality of criticism or manner; the other was a discussion of a principle, to which he said he should confine himself. Mr. Fessenden said he saw no impropriety in answering a previous speaker in debate. If you differed from him, answer him on the spot, have a discussion and see where

the truth lay. He did not know what was meant by personality of criticism or manner. It was legitimate to criticise the matter or the remedy. No one ought to criticise the individual in relation to other things. He did not conceive what was meant by personality of manner. If they did not have different manners they would be a very dull assembly. He should be sorry to be judged by his manner because it did not have all the suavity and elegance of the senator from Massachusetts.

Holding these opinions, he claimed the right, if a previous speaker attacked his proposition, to examine his arguments. Criticism did not imply unfriendliness, a speech in the Senate was fair game to any one opposed to its principles or assumptions.

There was another distinction to be drawn as to parliamentary debate. One kind was a long, labored, written oration prepared carefully beforehand, its thunderbolts forged, and then brought in and read to the Senate. Another kind was when a senator in unpremeditated language took up the subject and discussed it without that previous preparation. He would not undertake to say which was the best, but he had understood that in assemblies of France and England it was not permitted to read speeches. Perhaps the orationizing was the best for future reputation, but senators ought not to be blamed for preferring the other way. Sir James Mackintosh said that these written orations did not denote a capacity for affairs.

There was another distinction he would like to draw. There were two kinds of personality in debate. One was a personality aimed at an individual in the heat of debate, when men were speaking under the excitement of the moment. Another was a personality not aimed at an individual, but aimed at numbers, at masses, full of epithets and denunciations, which did not pick out an individual

who could reply to it on the spot, but was elaborated carefully in the closet, full of bitterness, but so expressed that no one individual had the right to take it to himself. He thought the latter, being deliberated upon, exhibited vastly more malice than hasty words which escaped one in the heat of argument.

The senator from Massachusetts, while saying he should consider principles, had undertaken to designate the character of the proposed amendment. "I have chosen," said Mr. Fessenden, "a few of his flowers of rhetoric from his speech. What does the senator call it? 'Compromise of human rights, dishonoring the name of the Republic,' 'bad mutton,' 'new muscipula abortion,' 'abomination, disgusting ordure, loathsome stench,' etc., etc. The application of these phrases to a proposition coming from his own political and personal friends, passed by two thirds of the House of Representatives, supported by a large majority of the Senate, including his own colleague, not applied in the heat of debate, but prepared carefully in the closet, printed, the proof corrected, and brought here to be retailed to the country, is a matter the propriety of which must be left to himself to judge."

The vote stood 25 for the proposed amendment and 22 against it, and as two thirds of the Senate did not vote in favor of it, it failed of a passage.

Of this debate, he writes home: —

"I have been quite out of sorts for the last two weeks, hardly able to hold my head up, and that head in a constant burr. It is hard to work all the time under such circumstances, and especially hard to make a speech when your own voice has an unnatural sound, and to keep the thread of your discourse. It reads, however, better than I expected, in spite of the reporter's blunders, which I was too much exhausted to correct. I believe that it is gener-

ally thought that Mr. Sumner's logic was pretty much used up — that part of it which had anything to do with the matter under discussion. But he threatens a terrible reply, I am told. Let it come."

A new proposition, it may be well to state here, prepared in place of the foregoing, finally became the Fourteenth Amendment.

The joint resolution, which had been defeated in the Senate by the union of Democrats, Johnson Republicans, and Mr. Sumner and his following, provided for but one of the measures of adjustment rendered necessary by the overthrow of the Rebellion. Besides fixing the basis of representation, there were numerous propositions before the Congress touching the rights of citizens, the exclusion of rebels from office, the security of the public debt, the pensions, and the prohibition of payment for the emancipated slaves. These had all been referred to the committee of fifteen. After the failure of the proposed amendment there was a cessation of debate upon the subject of reconstruction, and Congress waited until another measure should be reported from the committee. For the next six weeks all these questions relating to reconstruction were carefully considered in the committee, were referred to various sub-committees to be put in shape, and were finally embodied in a proposed amendment of five sections, which were the substance of the famous Fourteenth Amendment. The first prohibited any State from abridging the rights of citizens of the United States. The second provided that the representation of any State should be reduced in proportion to its denial of the right of suffrage to any of its male citizens twenty-one years old. The third excluded from the right to vote for members of Congress and President and Vice-President, until July 4, 1870, all persons who participated in the Rebellion.

The fourth forbade the assumption by the United States or any State of any debt incurred in aid of the Rebellion, or for the payment of slaves. The fifth gave to Congress the right to enforce these articles by legislation.

The amendment passed the House on the 10th of May by a vote of 128 to 37. It came to the Senate, where the articles were amended. The first article was strengthened by defining who were citizens of the United States, viz., all persons born or naturalized in the United States, and subject to its jurisdiction, were citizens of the United States and of the State where they resided. This was a great and beneficent provision, and put an end to possible conflicts between a State and the general government. The second section was amended by being made more definite. It provided that if the right to vote at any election of electors of President and Vice-President, representatives in Congress, the executive and judicial officers of a State, or the members of the state legislature, should be denied to any of the male inhabitants of a State, being twenty-one years old and citizens of the United States, the basis of representation should be reduced proportionately. The third section was changed to prohibit from holding any civil or military office those persons who participated in the Rebellion unless Congress by a two thirds vote first removed such disability, while the fourth received an additional provision to secure the public debt and debts incurred for pensions and bounties.

The amendment came up in the Senate on the 24th of May. It devolved upon Mr. Fessenden, as chairman of the committee of fifteen, to explain it to the Senate. But he was just recovering from an attack of varioloid, which had left him very weak, and he gave the amendment to the charge of Senator Howard. The most important changes were suggested by Mr. Howard on behalf of the

Senate members of the committee. Mr. Fessenden was in his seat and participated in the debate, explaining why some of the amendments were thought necessary.

The House accepted the various amendments adopted in the Senate, and the measure, having passed both houses by more than the requisite two thirds vote, became the famous Fourteenth Amendment.

Writing home, he says:—

“I agree, and Dr. Hall agrees, that the best thing I can do is to go home at once, and the Lord knows how delighted I should be to do so. But it is next to impossible. The truth is, I am afraid to leave New England interests in the hands of Mr. —, whom I am getting to detest for his meanness and selfishness. The tax and tariff bills are of great importance, and there is nobody on my committee competent to take charge of them. Still, unless I gain some strength soon, I *must* go, for I shall be useless here, and may as well be away. I shouldn’t like to be sick all summer, and if I am to break down entirely, should like a chance to settle up my affairs. The time I looked forward to, of ‘Come, Daddy, supper’s ready,’ seems to be fast approaching. . . .

“Things are looking better, politically. Congress is asserting itself properly, and the President is, I think, beginning to see that he is not the government. Our new platform is a very strong one. I have been writing a report which will be made in a few days. I am afraid it will be a very stupid affair, for it has been composed in weary hours, when I could find time, in which I should have rested. . . .

“I am exceedingly relieved, too, by getting the reconstruction off my hands. Writing a report has been very troublesome, as it was extra work, to be done as I could pick up an hour, and I was sick all the time. It is done,

however, and the resolutions have passed. I hoped to have some strength by passing over the management of these to another, but it cost more than it came to, and everybody grumbled at me, besides."

On the day the vote was taken in the Senate, Mr. Fessenden stated that he had drawn a report which he had desired should be read in the Senate, but as it was late, and the Senate was waiting to vote, he would submit it without the reading. Afterwards in the discussion concerning the printing of the views of the minority, which occurred on July 7, Mr. Fessenden said that he had intended to present the report of the committee at the time he presented the joint resolution; but just as he had collected some papers for preparing it, he was seized with a disease which made him unfit for work until the last days of the session of the committee on the subject of the resolution. He was directed by the committee to prepare the report as soon as he could do so at some future day. Owing to his feeble health and the great accumulation of his business, he had found it very difficult to prepare a report, and such as it was it was written in his room at odd hours on such occasions as he could well get, an hour at a time, when he could look into the subject, so that he was unable to get it finished until three or four days before it was presented. He then called a meeting of the committee and read it to them. They approved it with one or two suggestions for alteration of phraseology.

The report has been called one of the greatest state papers in our political history. It was entirely satisfactory to the Republican party. It gave the Republicans the strongest grounds upon which to place their measures with regard to the Confederate States, and furnished the arguments upon which an appeal was made to the people in the elections of 1866. It demonstrated the weakness

of the President's course, and the entire want of sufficient information on his part to justify the steps he had taken. All members of the party felt that the report fully vindicated the power of Congress over reconstruction, and the necessity of securing by constitutional safeguards the measures embodied in the Fourteenth Amendment.

The conclusion of the minority was that insurrectionary States were still States in the Union and entitled to every right and privilege belonging to other States; that if some of their people could not take the oath of allegiance, it was a question irrespective of the right of the States to be represented.

The Fourteenth Amendment was passed by the requisite two thirds vote on the 13th of June, and on the 16th of July was certified to the States for their acceptance or rejection. But it was nearly two years before it was adopted. In the Northern States under Republican control it was accepted as soon as the legislatures assembled. In every Northern State under Democratic control and in every rebel State it was at once rejected. Not only every Democratic legislature, but every Democratic member, North as well as South, voted against these provisions. The opposition of President Johnson to the measures of Congress and the support of Northern Democrats of the claim of the rebel States to return at once into the Union encouraged them to reject the Fourteenth Amendment. They not only refused to adopt the amendment, but entered upon a course of defiance of Congress, of outrage of Union men, of oppression of the blacks, and of placing in power the most prominent leaders of the Confederacy.

After the adjournment of Congress, on July 28, the country entered at once upon one of the most exciting and important political campaigns of its history, the issue being the President's policy on the one hand, and the

Fourteenth Amendment and the measures of Congress on the other. During the campaign occurred the murder of hundreds of Union men in the South, the massacre of the Republican Convention in New Orleans, and the speech-making tour of President Johnson. At no time, even during the war, were the loyal masses of the North more deeply stirred with indignation. The result of the elections for the next Congress was the complete overthrow of the President and his policy. Congress was not only sustained, but a greater majority was returned to the new House of Representatives. The public discussions over the conduct of the rebel States in rejecting the Fourteenth Amendment, and upon the justice and necessity of giving political rights to the loyal blacks, had brought the public mind to the determination of forcing the Southern States to grant the suffrage to all of their citizens before they could be admitted to Congress. Mr. Fessenden's opinion was that the insurgent States should be held under military rule until they accepted the Fourteenth Amendment and applied for admission with constitutions that were satisfactory. He thought that it was a mistake to hurry them back into the Union.

Writing upon the proceedings in Congress, he said: "The questions at issue are infinitely important to the future of the country. I cannot shrink from the burden laid upon me. Could I feel safe in leaving it to others, I would gladly retire from my position. At times I am almost despairing of my strength to go through. Mr. —, with his impracticable notions, his hatred of the President, coupled with his power over public opinion, is doing infinite harm. So are some others. All I can do is to try to evoke something like order and safety out of the dangers around us. But enough of this.

"As certainty is preferable to suspense, the President's

recent exhibition of folly and wickedness is also a relief. The long agony is over. He has broken his faith, betrayed his trust, and must sink from detestation into contempt. I see nothing ahead but a long, wearisome struggle for three years, and in the mean time great domestic convulsions and an entire cessation of the work of reform — perhaps a return to power of the country's worst enemies, Northern copperheads. I regret exceedingly that the amendment was lost, for we can get nothing so good. If you carry any other through Congress it will not be adopted by the States, and the blacks are left without hope. This is owing to Mr. —. Probably by this time you have read my last reply to —, and think that getting rid of so much bile must have been beneficial. Mr. Hall didn't get off a bad thing lately when he said that he could always tell the state of my health by my tongue without seeing it.

“I see nothing ahead but a standing quarrel between the President and Congress. The latter, however, is getting consolidated, and the hope is that we may have a reliable party. It is all-important that we should have two thirds in each branch. I will never consent to take in a man from one of the Confederate States until we have some security for the future. Nominally we have a majority of more than two thirds in both branches of Congress, and ought to pass such laws as we deem necessary, in spite of vetoes. In all such bodies, however, there are always found weak and unreliable if not corrupt men. Situated as matters are, it is doubtful whether anything effectual can be done during this session. In that case, the next fall elections must determine the question.”

“April. The political skies are growing brighter. The passage of the Civil Rights Bill over the veto has strengthened our hands. The prospect is that we may

now rely on a consolidated two thirds vote when needed, and the people at home seem to sustain us. The committee will probably report before long."

It had been for some years the favorite wish of Mr. Fessenden to retire from public life to the quiet dignity of the judge of the United States District Court of Maine. At the time he was appointed Secretary of the Treasury he had expressed this desire to President Lincoln. Mr. Lincoln said he would gladly appoint him, but thought it was his duty to remain in public life. The learned and venerable Judge Ware, who held the office of district judge, had offered to resign whenever Mr. Fessenden would take the place. He had now become too feeble to perform his duties, and it was necessary to appoint his successor. But Mr. Fessenden felt that it would not be right to retreat to a safe place while so many great national interests were at stake, and reluctantly abandoned the idea of the judgeship. Upon his recommendation the Hon. Edward Fox was appointed.

REPORT OF THE JOINT COMMITTEE ON RECONSTRUCTION.

The joint committee of the two houses of Congress appointed under the concurrent resolution of December 13, 1865, with direction "to inquire into the condition of the States which formed the so-called Confederate States of America, and report whether they or any of them are entitled to be represented in either house of Congress, with leave to report by bill or otherwise," ask leave to report:—

That they have attended to the duty assigned them as assiduously as other duties would permit, and now submit to Congress, as the result of their deliberations, a resolution proposing amendments to the Constitution, and two bills, of which they recommend the adoption.

Before proceeding to set forth in detail their reasons for the conclusion to which, after great deliberation, your committee have arrived, they beg leave to advert, briefly, to the course of proceedings they found it necessary to adopt, and to explain the reasons therefor.

The resolution under which your committee was appointed directed them to inquire into the condition of the Confederate States, and report whether they were entitled to representation in Congress. It is obvious that such an investigation, covering so large an extent of territory and involving so many important considerations, must necessarily require no trifling labor, and consume a very considerable amount of time. It must embrace the condition in which those States were left at the close of the war; the measures which have been taken towards the reorganization of civil government, and the disposition of the people towards the United States; in a word, their fitness to take an active part in the administration of national affairs.

As to their condition at the close of the Rebellion, the evidence is open to all and admits of no dispute. They were in a state of utter exhaustion. Having protracted their struggle against federal authority until all hope of successful resistance had ceased, and laid down their arms only because there was no longer any power to use them, the people of those States were left bankrupt in their public finances, and shorn of the private wealth which had before given them power and influence. They were also necessarily in a state of complete anarchy, without governments and without the power to frame governments except by the permission of those who had been successful in the war. The President of the United States, in the proclamations under which he appointed provisional governors, and in his various communications to them, has in exact terms recognized the fact that the people

of those States were, when the rebellion was crushed, "deprived of all civil government," and must proceed to organize anew. In his conversation with Mr. Stearns of Massachusetts, certified by himself, President Johnson said, "The state institutions are prostrated, laid out on the ground, and they must be taken up and adapted to the progress of events." Finding the Southern States in this condition, and Congress having failed to provide for the contingency, his duty was obvious. As President of the United States, he had no power except to execute the laws of the land as chief magistrate. These laws gave him no authority over the subject of reorganization, but by the Constitution he was commander-in-chief of the army and navy of the United States. The Confederate States embraced a portion of the people of the Union who had been in a state of revolt, but who had been reduced to obedience by force of arms. They were in an abnormal condition, without civil government, without commercial connections, without national or international relations, and subject only to martial law. By withdrawing their representatives in Congress, by renouncing the privilege of representation, by organizing a separate government, and by levying war against the United States, they destroyed their state constitutions in respect to the vital principle which connected their respective States with the Union and secured their federal relations; and nothing of those constitutions was left of which the United States was bound to take notice. For four years they had a *de facto* government, but it was usurped and illegal. They chose the tribunal of arms wherein to decide whether or not it should be legalized, and they were defeated. At the close of the Rebellion, therefore, the people of the rebellious States were found, as the President expresses it, "deprived of all civil government."

Under this state of affairs it was plainly the duty of the President to enforce existing national laws, and to establish, as far as he could, such a system of government as might be provided for by existing national statutes. As commander-in-chief of a victorious army, it was his duty, under the law of nations and the army regulations, to restore order, to preserve property, and to protect the people against violence from any quarter until provision should be made by law for their government. He might, as President, assemble Congress and submit the whole matter to the law-making power; or he might continue military supervision and control until Congress should assemble on its regular appointed day. Selecting the latter alternative, he proceeded, by virtue of his power as commander-in-chief, to appoint provisional governors over the revolted States. These were regularly commissioned, and their compensation was paid, as the Secretary of War states, "from the appropriation for army contingencies, because the duties performed by the parties were regarded as of a temporary character, ancillary to the withdrawal of the military force, the disbandment of armies, and the reduction of military expenditure, by provisional organizations for the protection of civil rights, the preservation of peace, and to take the place of armed force in the respective States." It cannot, we think, be contended that these governors possessed, or could exercise, any but military authority. They had no power to organize civil governments, nor to exercise any authority except that which inhered in their own persons under their commissions. Neither had the President, as commander-in-chief, any other than military power. But he was in exclusive possession of the military authority. It was for him to decide how far he would exercise it, how far he would relax it, when and on what terms he would withdraw it.

He might properly permit the people to assemble, and to initiate local governments, and to execute such local laws as they might choose to frame not inconsistent with, nor in opposition to, the laws of the United States. And if satisfied that they might safely be left to themselves, he might withdraw the military forces altogether, and leave the people of any or all of these States to govern themselves without his interference. In the language of the Secretary of State, in his telegram to the provisional governor of Georgia dated October 28, 1865, he might "recognize the people of any State as having resumed the relations of loyalty to the Union," and act in his military capacity on this hypothesis. All this was within his own discretion, as military commander. But it was not for him to decide upon the nature or effect of any system of government which the people of these States might see fit to adopt. This power is lodged by the Constitution in the Congress of the United States, that branch of the government in which is vested the authority to fix the political relations of the States to the Union, whose duty it is to guarantee to each State a republican form of government, and to protect each and all of them from foreign or domestic violence, and against each other. We cannot, therefore, regard the various acts of the President in relation to the formation of local governments in the insurrectionary States, and the conditions imposed by him upon their action, in any other light than as intimations to the people that, as commander-in-chief of the army, he would consent to withdraw military rule just in proportion as they should, by their acts, manifest a disposition to preserve order among themselves, establish governments denoting loyalty to the Union, and exhibit a settled determination to return to their allegiance, leaving it to the law-making power to fix the terms of their

final restoration to all their rights and privileges as States of the Union. That this was the view of his power taken by the President is evidenced from expressions to that effect in the communications of the Secretary of State to the various provisional governors, and repeated declarations of the President himself. Any other supposition inconsistent with this would impute to the President designs of encroachment upon a coördinate branch of the government, which should not be lightly attributed to the chief magistrate of the nation.

When Congress assembled in December last the people of most of the States lately in rebellion had, under the advice of the President, organized local governments, and some of them had acceded to the terms proposed by him. In his annual message he stated in general terms what had been done, but he did not see fit to communicate the details for the information of Congress. While in this and in a subsequent message the President urged the speedy restoration of these States, and expressed the opinion that their condition was such as to justify their restoration, yet it is quite obvious that Congress must either have acted blindly on the opinion of the President or proceeded to obtain the information requisite for intelligent action on the subject. The impropriety of proceeding wholly on the judgment of any one man, however exalted his station, in a matter involving the welfare of the republic in all future time, or of adopting any plan, coming from any source, without fully understanding all its bearings and comprehending its full effect, was apparent. The first step, therefore, was to obtain the required information. A call was accordingly made on the President for the information in his possession as to what had been done, in order that Congress might judge for itself as to the grounds of the belief expressed by him in the

fitness of States recently in rebellion to participate fully in the conduct of national affairs. This information was not immediately communicated. When the response was finally made some six weeks after your committee had been in actual session, it was found that the evidence upon which the President seemed to have based his suggestions was incomplete and unsatisfactory. Authenticated copies of the new constitutions and ordinances adopted by the conventions in three of the States had been submitted, extracts from newspapers furnished scanty information as to the action of one other State, and nothing appears to have been communicated as to the remainder. There was no evidence of the loyalty of those who had participated in these conventions, and in one State alone was any proposition made to submit the action of the conventions to the final judgment of the people.

Failing to obtain the desired information, and left to grope for light wherever it might be found, your committee did not deem it either advisable or safe to adopt, without further examination, the suggestions of the President, more especially as he had not deemed it expedient to remove the military force, to suspend martial law, or to restore the writ of habeas corpus, but still thought it necessary to exercise over the people of the rebellious States his military power and jurisdiction. This conclusion derived still greater force from the fact, undisputed, that in all these States, except Tennessee and perhaps Arkansas, the elections which were held for state officers and members of Congress had resulted almost universally in the defeat of the candidates who had been true to the Union, and in the election of notorious and unpardoned rebels, men who could not take the prescribed oath of office, and who made no secret of their hostility to the government and the people of the United States. Under

these circumstances anything like hasty action would have been as dangerous as it was obviously unwise. It appeared to your committee that but one course remained, viz., to investigate carefully and thoroughly the state of feeling and opinion existing among the people of these States; to ascertain how far their pretended loyalty could be relied upon, and thence to infer whether it would be safe to admit them at once into full participation in the government they had fought for four years to destroy. It was an equally important inquiry whether their restoration to their former relations with the United States should be granted only upon certain conditions and guarantees which would effectually secure the nation against a recurrence of evils so disastrous as those from which it had escaped at so enormous a sacrifice.

To obtain the necessary information recourse could only be had to the examination of witnesses whose position had given them the best means of forming an accurate judgment, who could state facts from their own observation, and whose character and standing afforded the best evidence of their truthfulness and impartiality. A work like this, covering so large an extent of territory, and embracing such complicated and extensive inquiries, necessarily required much time and labor. To shorten the time as much as possible, the work was divided and placed in the hands of four sub-committees, who have been diligently employed in its accomplishment. The results of their labors have been heretofore submitted, and the country will judge how far they sustain the President's views, and how far they justify the conclusions to which your committee have finally arrived.

A claim for the immediate admission of senators and representatives from the so-called Confederate States has been urged, which seems to your committee not to be

founded either in reason or in law, and which cannot be passed without comment. Stated in a few words, it amounts to this: That inasmuch as the lately insurgent States had no legal right to separate themselves from the Union, they still retain their positions as States, and consequently the people thereof have a right to immediate representation in Congress without the imposition of any conditions whatever; and further, that until such admission Congress had no right to tax them for the support of the government. It has even been contended that until such admission all legislation affecting their interests is, if not unconstitutional, at least unjustifiable and oppressive.

It is believed by your committee that all these propositions are not only wholly untenable, but, if admitted, would tend to the destruction of the government.

It must not be forgotten that the people of these States, without justification or excuse, rose in insurrection against the United States. They deliberately abolished their state governments so far as the same connected them politically with the Union as members thereof under the Constitution. They deliberately renounced their allegiance to the federal government, and proceeded to establish an independent government for themselves. In the prosecution of this enterprise they seized the national forts, arsenals, dockyards, and other public property within their borders, drove out from among them those who remained true to the Union, and heaped every imaginable insult and injury upon the United States and its citizens. Finally they opened hostilities and levied war against the government. They continued this war for four years with the most determined and malignant spirit, killing in battle and otherwise large numbers of loyal people, destroying the property of loyal citizens on the

sea and on the land, and entailing on the government an enormous debt, incurred to sustain its rightful authority. Whether legally and constitutionally or not, they did, in fact, withdraw from the Union and made themselves subjects of another government of their own creation. And they only yielded when, after a long, bloody, and wasting war, they were compelled by utter exhaustion to lay down their arms; and this they did not willingly, but declaring that they yielded because they could no longer resist, affording no evidence whatever of repentance for their crime, and expressing no regret, except that they had no longer the power to continue the desperate struggle.

It cannot, we think, be denied by any one, having a tolerable acquaintance with public law, that the war thus waged was a civil war of the greatest magnitude. The people waging it were necessarily subject to all the rules which, by the law of nations, control a contest of that character, and to all the legitimate consequences following it. One of those consequences was that, within the limits prescribed by humanity, the conquered rebels were at the mercy of the conquerors. That a government thus outraged had a most perfect right to exact indemnity for the injuries done, and security against the recurrence of such outrages in the future, would seem too clear for dispute. What the nature of that security should be, what proof should be required of a return to allegiance, what time should elapse before a people thus demoralized should be restored in full to the enjoyment of political rights and privileges, are questions for the law-making power to decide, and that decision must depend on grave considerations of the public safety and general welfare.

It was moreover contended, with apparent gravity, that, from the peculiar nature and character of our government, no such right on the part of the conqueror can

exist; that from the moment rebellion lays down its arms and actual hostilities cease, all political rights of rebellious communities are at once restored; that, because the people of a State of the Union were once an organized community within the Union, they necessarily so remain, and their right to be represented in Congress at any and all times, and to participate in the government of the country under all circumstances, admits of neither question nor dispute. If this is indeed true, then is the government of the United States powerless for its own protection, and flagrant rebellion, carried to the extreme of civil war, is a pastime which any State may play at, not only certain that it can lose nothing in any event, but may even be the gainer by defeat. If rebellion succeeds, it accomplishes its purpose and destroys the government. If it fails, the war has been barren of results, and the battle may still be fought out in the legislative halls of the country. Treason, defeated in the field, has only to take possession of Congress and the Cabinet.

Your committee do not deem it either necessary or proper to discuss the question whether the late Confederate States are still States of the Union, or can ever be otherwise. Granting this profitless abstraction about which so many words have been wasted, it by no means follows that the people of those States may not place themselves in a position to abrogate the powers and privileges incident to a State of the Union, and deprive themselves of all pretense of right to exercise those powers and enjoy those privileges. A State within the Union has obligations to discharge as a member of the Union. It must submit to federal laws and uphold federal authority. It must have a government republican in form, under and by which it is connected with the general government, and through which it can discharge its obligations. It is

more than idle, it is a mockery, to contend that a people who have thrown off their allegiance, destroyed the local government which bound their States to the Union as members thereof, defied its authority, refused to execute its laws, and abrogated every provision which gave them political rights within the Union, still retain through all the perfect and entire right to resume, at their own will and pleasure, all their privileges within the Union, and especially to participate in its government, and to control the conduct of its affairs. To admit such a principle for one moment would be to declare that treason is always master and loyalty a blunder. Such a principle is void by its very nature and essence, because inconsistent with the theory of government, and fatal to its very existence.

On the contrary, we assert that no portion of the people of this country, whether in State or Territory, have the right, while remaining on its soil, to withdraw from or reject the authority of the United States. They must obey its laws as paramount, and acknowledge its jurisdiction. They have no right to secede; and while they can destroy their state governments, and place themselves beyond the pale of the Union, so far as the exercise of state privileges is concerned, they cannot escape the obligations imposed upon them by the Constitution and the laws, nor impair the exercise of national authority. The Constitution, it will be observed, does not act upon States as such, but upon the people; while, therefore, the people cannot escape its authority, the States may, through the act of their people, cease to exist in an organized form, and thus dissolve their political relations with the United States.

That taxation should be only with the consent of the taxed, through their own representatives, is a cardinal principle of all free governments; but it is not true that

taxation and representation must go together under all circumstances, and at every moment of time. The people of the District of Columbia and of the Territories are taxed, although not represented in Congress. If it is true that the people of the so-called Confederate States had no right to throw off the authority of the United States, it is equally true that they are bound at all times to share the burdens of government. They cannot, either legally or equitably, refuse to bear their just proportion of these burdens by voluntarily abdicating their rights and privileges as States of the Union, and refusing to be represented in the councils of the nation, much less by rebellion against national authority, and levying war. To hold that by so doing they could escape taxation would be to offer a premium for insurrection, to reward instead of punishing treason. To hold that as soon as government is restored to its full authority it can be allowed no time to secure itself against similar wrongs in the future, or else omit the ordinary exercise of its constitutional power to compel equal contribution from all, towards the expenses of government, would be unreasonable in itself, and unjust to the nation. It is sufficient to reply that the loss of representation by the people of the insurrectionary States was their own voluntary choice. They might abandon their privileges, but they could not escape their obligations; and surely they have no right to complain if, before resuming those privileges, and while the people of the United States are devising measures for the public safety, rendered necessary by the act of those who thus disfranchised themselves, they are compelled to contribute their just proportion of the general burden of taxation incurred by their wickedness and folly.

Equally absurd is the pretense that the legislative authority of the nation must be inoperative so far as they

are concerned, while they, by their own act, have lost the right to take part in it. Such a proposition carries its own refutation on its face.

While thus exposing fallacies which, as your committee believe, are resorted to for the purpose of misleading the people and distracting their attention from the question at issue, we freely admit that such a condition of things should be brought, if possible, to a speedy termination. It is most desirable that the union of all the States should become perfect at the earliest moment consistent with the peace and welfare of the nation; that all these States should become fully represented in the national councils and take their share in the legislation of the country. The possession and exercise of more than its just share of power by any section is injurious, as well to that section as to all others. Its tendency is distracting and demoralizing, and such a state of affairs is only to be tolerated on the ground of a necessary regard to the public safety. As soon as that safety is secured it should terminate.

Your committee came to the consideration of the subject referred to them with the most anxious desire to ascertain what was the condition of the people of the States recently in insurrection, and what, if anything, was necessary to be done before restoring them to the full enjoyment of all their original privileges. It was undeniable that the war into which they had plunged the country had materially changed their relations to the people of the loyal States. Slavery had been abolished by constitutional amendment. A large proportion of the population had become, instead of mere chattels, free men and citizens. Through all the past struggle these had remained true and loyal and had in large numbers fought on the side of the Union. It was impossible to abandon

them without securing them their rights as free men and citizens. The whole civilized world would have cried out against such base ingratitude, and the bare idea is offensive to all right-thinking men. Hence it became important to inquire what could be done to secure their rights, civil and political. It was evident to your committee that adequate security could only be found in appropriate constitutional provisions. By an original provision of the Constitution, representation is based on the whole number of free persons in each State, and three fifths of all other persons. When all become free, representation for all necessarily follows. As a consequence the inevitable effect of the Rebellion would be to increase the political power of the insurrectionary States whenever they should be allowed to resume their positions as States of the Union. As representation is by the Constitution based upon population, your committee did not think it advisable to recommend a change of that basis. The increase of representation necessarily resulting from the abolition of slavery was considered the most important element in the questions arising out of the changed condition of affairs, and the necessity for some fundamental action in this regard seemed imperative. It appeared to your committee that the rights of these persons by whom the basis of representation had been thus increased should be recognized by the general government. While slaves, they were not considered as having any rights, civil or political. It did not seem just or proper that all the political advantages derived from their becoming free should be confined to their former masters, who had fought against the Union, and withheld from themselves, who had always been loyal. Slavery, by building up a ruling and dominant class, had produced a spirit of oligarchy adverse to republican institutions, which finally inaugurated civil war. The tendency

of continuing the domination of such a class, by leaving it in the exclusive possession of political power, would be to encourage the same spirit, and lead to a similar result. Doubts were entertained whether Congress had power, even under the amended Constitution, to prescribe the qualifications of voters in a State, or could act directly on the subject. It was doubtful, in the opinion of your committee, whether the States would consent to surrender a power they had always exercised, and to which they were attached. As the best if not the only method of surmounting the difficulty, and as eminently just and proper in itself, your committee came to the conclusion that political power should be possessed in all the States exactly in proportion as the right of suffrage should be granted, without distinction of color or race. This it was thought would leave the whole question with the people of each State, holding out to all the advantage of increased political power as an inducement to allow all to participate in its exercise. Such a provision would be in its nature gentle and persuasive, and would lead, it was hoped, at no distant day, to an equal participation of all, without distinction, in all the rights and privileges of citizenship, thus affording a full and adequate protection to all classes of citizens, since all would have, through the ballot-box, the power of self-protection.

Holding these views, your committee prepared an amendment to the Constitution to carry out this idea and submitted the same to Congress. Unfortunately, as we think, it did not receive the necessary constitutional support in the Senate, and therefore could not be proposed for adoption by the States. The principle involved in that amendment is, however, believed to be sound, and your committee have again proposed it in another form, hoping that it may receive the approbation of Congress.

Your committee have been unable to find, in the evidence submitted to Congress by the President, under date of March 6, 1866, in compliance with the resolutions of January 6 and February 27, 1866, any satisfactory proof that either of the insurrectionary States, except, perhaps, the State of Tennessee, has placed itself in a condition to resume its political relations to the Union. The first step towards that end would necessarily be the establishment of a republican form of government by the people. It has been before remarked that the provisional governors, appointed by the President in the exercise of his military authority, could do nothing by virtue of the power thus conferred towards the establishment of a state government. They were acting under the War Department and paid out of its funds. They were simply bridging over the chasm between rebellion and restoration. And yet we find them calling conventions and convening legislatures. Not only this, but we find the conventions and legislatures thus convened acting under executive direction as to the provisions required to be adopted in their constitutions and ordinances as conditions precedent to their recognition by the President. The inducement held out by the President for compliance with conditions imposed was, directly in one instance, and presumably, therefore, in others, the immediate admission of senators and representatives to Congress. The character of the conventions and legislatures thus assembled was not such as to inspire confidence in the good faith of their members. Governor Perry of South Carolina dissolved the convention assembled in that State before the suggestion had reached Columbia from Washington that the rebel war debt should be repudiated, and gave as his reason that it was a "revolutionary body."

There is no evidence of the loyalty or disloyalty of the members of those conventions and legislatures except the fact of pardons being asked for on their account. Some of these States now claiming representation refused to adopt the conditions imposed. No reliable information is found in these papers as to the constitutional provisions of several of these States, while in not one of them is the slightest evidence to show that these "amended constitutions," as they are called, have ever been submitted to the people for their adoption. In North Carolina alone an ordinance was passed to that effect, but it does not appear to have been acted on. Not one of them, therefore, has been ratified. Whether, with President Johnson, we adopt the theory that the old constitutions were abrogated and destroyed, and the people "deprived of all civil government," or were revived by the suppression of the Rebellion, the new provisions must be considered as equally destitute of validity before adoption by the people. If the conventions were called for the sole purpose of putting the state government into operation, they had no power either to adopt a new constitution or to amend an old one without the consent of the people. Nor could either a convention or a legislature change the fundamental law without power previously conferred. In the view of your committee, it follows, therefore, that the people of a State where the Constitution has been thus amended might feel themselves justified in repudiating altogether all such unauthorized assumptions of power, and might be expected to do so at pleasure.

So far as the disposition of the people of the insurrectionary States is concerned, and the probability of their adopting measures conforming to the changed condition of affairs can be inferred from the papers submitted by the President as the basis of his action, the outlook is far

from encouraging. It appears quite clear that the anti-slavery amendments, both to the state and federal constitutions, were adopted with reluctance by the bodies which did adopt them, while in some States they have been either passed by in silence or rejected. The language of all the provisions and ordinances of these States on the subject amounts to nothing more than an unwilling admission of an unwelcome truth. As to the ordinance of secession, it is in some cases declared "null and void," and in others simply "repealed;" and in no instance is a refutation of this deadly heresy considered worthy of a place in the new Constitution.

If, as the President assumes, these insurrectionary States were, at the close of the war, wholly without state governments, it would seem that, before being admitted to participation in the direction of public affairs, such governments should be regularly organized. Long usage has established, and numerous statutes have pointed out, the mode in which this should be done. A convention to frame a form of government should be assembled under competent authority. Ordinarily, this authority emanates from Congress; but, under the peculiar circumstances, your committee is not disposed to criticise the President's action in assuming the power exercised by him in this regard. The convention, when assembled, should frame a constitution of government, which should be submitted to the people for adoption. If adopted, a legislature should be convened to pass the laws necessary to carry it into effect. When a State, thus organized, claims representation in Congress, the election of representatives should be provided for by law, in accordance with the laws of Congress regulating representation, and the proof that the action taken has been in conformity to law should be submitted to Congress.

In no case have these essential preliminary steps been taken. The conventions assembled seem to have assumed that the constitutions which had been repudiated and overthrown were still in existence, and operative to constitute the States members of the Union, and to have contented themselves with such amendments as they were informed were requisite in order to insure their return to an immediate participation in the government of the United States. Not waiting to ascertain whether the people they represented would adopt even the proposed amendments, they at once ordered elections of representatives to Congress, in nearly all instances before an executive had been chosen to issue writs of election under the State laws, and such elections as were held were ordered by the conventions. In one instance at least the writs of election were signed by the provisional governor. Glaring irregularities and unwarranted assumptions of power are manifest in several cases, particularly in South Carolina, where the convention, although disbanded by the provisional governor, on the ground that it was a revolutionary body, assumed to redistrict the State.

It is quite evident from all these facts, and indeed from the whole mass of testimony submitted by the President to the Senate, that in no instance was regard paid to any other consideration than obtaining immediate admission to Congress, under the barren form of an election in which no precautions were taken to secure regularity of proceedings or the assent of the people. No constitution has been legally adopted except, perhaps, in the State of Tennessee, and such elections as have been held were without authority of law. Your committee are accordingly forced to the conclusion that the States referred to have not placed themselves in a condition to claim representation in Congress, unless all the rules which have, since

the foundation of the government, been deemed essential in such cases, should be disregarded.

It would undoubtedly be competent for Congress to waive all formalities and to admit these Confederate States to representation at once, trusting that time and experience would set all things right. Whether it would be advisable to do so, however, must depend upon other considerations, of which it remains to treat. But it may well be observed that the inducements to such a step should be of the very highest character. It seems to your committee not unreasonable to require satisfactory evidence that the ordinances and constitutional provisions which the President deemed essential in the first instance will be permanently adhered to by the people of the States seeking restoration, after being admitted to full participation in the government, and will not be repudiated when that object shall have been accomplished. And here the burden of proof rests upon the late insurgents, who are seeking restoration to the rights and privileges which they willingly abandoned, and not upon the people of the United States, who have never undertaken, directly or indirectly, to deprive them thereof. It should appear affirmatively that they are prepared and disposed in good faith to accept the results of the war, to abandon their hostility to the government, and to live in peace and amity with the people of the loyal States, extending to all classes of citizens equal rights and privileges, and conforming to the republican idea of liberty and equality. They should exhibit in their acts something more than an unwilling submission to an unavoidable necessity—a feeling, if not cheerful, certainly not offensive and defiant. And they should evince an entire repudiation of all hostility to the general government, by an acceptance of such just and reasonable conditions as that government should think

the public safety demands. Has this been done? Let us look at the facts shown by the evidence taken by the committee.

Hardly is the war closed before the people of these insurrectionary States come forward and haughtily claim, as a right, the privilege of participating at once in that government which they had for four years been fighting to overthrow. Allowed and encouraged by the Executive to organize state governments, they at once place in power leading rebels, unrepentant and unpardoned, excluding with contempt those who had manifested an attachment to the Union, and preferring, in many instances, those who had rendered themselves the most obnoxious. In the face of the law requiring an oath which would necessarily exclude all such men from federal offices, they elect, with very few exceptions, as senators and representatives in Congress, men who had actively participated in the Rebellion, insultingly denouncing the law as unconstitutional. It is only necessary to instance the election to the Senate of the late vice-president of the Confederacy, a man who, against his own declared convictions, had lent all the weight of his acknowledged ability and of his influence as a most prominent public man to the cause of the Rebellion, and who, unpardoned rebel as he is, with that oath staring him in the face, had the assurance to lay his credentials on the table of the Senate. Other rebels of scarcely less note or notoriety were selected from other quarters. Professing no repentance, glorying apparently in the crime they had committed, avowing still, as the uncontradicted testimony of Mr. Stephens and many others proves, an adherence to the pernicious doctrine of secession, and declaring that they yielded only to necessity, they insist, with unanimous voice, upon their rights as States, and proclaim that they will submit to no conditions

whatever as preliminary to their resumption of power under that Constitution which they still claim the right to repudiate.

Examining the evidence taken by your committee still further, in connection with facts too notorious to be disputed, it appears that the Southern press, with few exceptions, and those mostly of newspapers recently established by Northern men, abounds with weekly and daily abuse of the institutions and people of the loyal States ; defends the men who led, and the principles which incited, the Rebellion ; denounces and reviles Southern men who adhered to the Union ; and strives, constantly and unscrupulously, by every means in its power, to keep alive the fire of hate and discord between the sections, calling upon the President to violate his oath of office, overturn the government by force of arms, and drive the representatives of the people from their seats in Congress. The national banner is openly insulted, and the national airs scoffed at, not only by an ignorant populace, but at public meetings, and once, among other notable instances, at a dinner given in honor of a notorious rebel who had violated his oath and abandoned his flag. The same individual is elected to an important office in the leading city of his State, although an unpardoned rebel, and so offensive that the President refuses to allow him to enter upon his official duties. In another State the leading general of the rebel armies is openly nominated for governor by the speaker of the House of Delegates, and the nomination is hailed by the people with shouts of satisfaction, and openly indorsed by the press.

Looking still further at the evidence taken by your committee, it is found to be clearly shown by witnesses of the highest character, and having the best means of observation, that the Freedmen's Bureau, instituted for

the relief and protection of freedmen and refugees, is almost universally opposed by the mass of the population, and exists in an efficient condition only under military protection, while the Union men of the South are earnest in its defense, declaring with one voice that without its protection the colored people would not be permitted to labor at fair prices, and could hardly live in safety. They also testify that without the protection of the United States troops, Union men, whether of Northern or Southern origin, would be obliged to abandon their homes. The feeling in many portions of the country towards emancipated slaves, especially among the uneducated and ignorant, is one of vindictive and malicious hatred. This deep-seated prejudice against color is assiduously cultivated by the public journals, and leads to acts of cruelty, oppression, and murder, which the local authorities are at no pains to prevent or punish. There is no general disposition to place the colored race, constituting at least two fifths of the population, upon terms even of civil equality. While many instances may be found where large planters and men of the better class accept the situation, and honestly strive to bring about a better order of things, by employing the freedmen at fair wages and treating them kindly, the general feeling and disposition among all classes are yet totally averse to the toleration of any class of people friendly to the Union, be they white or black; and this aversion is not unfrequently manifested in an insulting and offensive manner.

The witnesses examined as to the willingness of the people of the South to contribute, under existing laws, to the payment of the national debt, prove that the taxes levied by the United States will be paid only on compulsion and with great reluctance, while there prevails, to a considerable extent, an expectation that compensation will be

made for slaves emancipated and property destroyed during the war. The testimony on this point comes from officers of the Union army, officers of the late rebel army, Union men of the Southern States, and avowed secessionists, almost all of whom state that, in their opinion, the people of the rebellious States would, if they should see a prospect of success, repudiate the national debt.

While there is scarcely any hope or desire among leading men to renew the attempt at secession at any future time, there is still, according to a large number of witnesses, including A. H. Stephens, who may be regarded as good authority on that point, a generally prevailing opinion which defends the legal right of secession, and upholds the doctrine that the first allegiance of the people is due to the States and not to the United States. This belief evidently prevails among leading and prominent men as well as among the masses everywhere, except in some of the northern counties of Alabama and the eastern counties of Tennessee.

The evidence of an intense hostility to the federal Union, and an equally intense love of the late Confederacy, nurtured by the war, is decisive. While it appears that nearly all are willing to submit, at least for the time being, to the federal authority, it is equally clear that the ruling motive is the desire to obtain the advantages which will be derived from a representation in Congress. Officers of the Union army on duty and Northern men who go South to engage in business are generally detested and proscribed. Southern men who adhered to the Union are bitterly hated and relentlessly persecuted. In some localities prosecutions have been instituted in state courts against Union officers for acts done in the line of official duty, and similar prosecutions are threatened elsewhere as soon as the United States troops are removed. All such

demonstrations show a state of feeling against which it is unmistakably necessary to guard.

The testimony is conclusive that after the collapse of the Confederacy the feeling of the people of the rebellious States was that of abject submission. Having appealed to the tribunal of arms, they had no hope except that, by the magnanimity of their conquerors, their lives, and possibly their property, might be preserved. Unfortunately, the general issue of pardons to the persons who had been prominent in the Rebellion, and the feeling of kindness and conciliation manifested by the Executive, and very generally indicated through the Northern press, had the effect to render whole communities forgetful of the crime they had committed, defiant towards the federal government, and regardless of their duties as citizens. The conciliatory measures of the government do not seem to have been met even half way. The bitterness and defiance exhibited towards the United States under such circumstances is without a parallel in the history of the world.

In return for our leniency we receive only an insulting denial of our authority. In return for our kind desire for the resumption of fraternal relations we receive only an insolent assumption of rights and privileges long since forfeited. The crime we have punished is paraded as a virtue, and the principles of the republican government which we have vindicated at so terrible a cost are denounced as unjust and oppressive.

If we add to this evidence the fact that, although peace has been declared by the President, he has not, to this day, deemed it safe to restore the writ of habeas corpus, to relieve the insurrectionary States of martial law, nor to withdraw the troops from many localities, and that the commanding general deems an increase of the army

indispensable to the preservation of order and the protection of loyal and well-disposed people in the South, the proof of a condition of feeling hostile to the Union and dangerous to the government throughout the insurrectionary States would seem to be overwhelming.

With such evidence before them, it is the opinion of your committee —

1. That the States lately in rebellion were, at the close of the war, disorganized communities, without civil government and without constitutions or other forms, by virtue of which political relations could legally exist between them and the federal government.

2. That Congress cannot be expected to recognize as valid the election of representatives from disorganized communities, which, from the very nature of the case, were unable to present their claim to representation under those established and recognized rules, the observance of which has been hitherto required.

3. That Congress would not be justified in admitting such communities to a participation in the government of the country without first providing such constitutional or other guarantees as will tend to secure the civil rights of all citizens of the republic ; a just equality of representation ; protection against claims founded in rebellion and crime ; a temporary restoration of the right of suffrage to those who have not actively participated in the efforts to destroy the Union and overthrow the government and the exclusion from positions of public trust of, at least, a portion of those whose crimes have proved them to be enemies to the Union and unworthy of public confidence.

Your committee, will perhaps hardly be deemed excusable for extending this report further ; but inasmuch as immediate and unconditional representation of the

States lately in rebellion is demanded as a matter of right, and delay and even hesitation is denounced as grossly oppressive and unjust as well as unwise and impolitic, it may not be amiss again to call attention to a few undisputed and notorious facts, and the principles of public law applicable thereto, in order that the propriety of that claim may be fully considered and well understood.

The State of Tennessee occupies a position distinct from all the other insurrectionary States, and has been the subject of a separate report which your committee have not thought it expedient to disturb. Whether Congress shall see fit to make that State the subject of separate action, or to include it in the same category with all others, so far as concerns the imposition of preliminary conditions, it is not within the province of this committee either to determine or advise.

To ascertain whether any of the so-called Confederate States "are entitled to be represented in either house of Congress," the essential inquiry is, whether there is, in any one of them, a constituency qualified to be represented in Congress. The question how far persons claiming seats in either house possess the credentials necessary to enable them to represent a duly qualified constituency is one for the consideration of each house separately, after the preliminary questions shall have been finally determined.

We now propose to restate, as briefly as possible, the general facts and principles applicable to all the States recently in rebellion.

First. The seats of the senators and representatives from the so-called Confederate States became vacant in the year 1861, during the second session of the Thirty-sixth Congress, by the voluntary withdrawal of their incumbents, with the sanction and by the direction of the

legislatures or conventions of their respective States. This was done as a hostile act against the Constitution and government of the United States, with a declared intent to overthrow the same by forming a Southern confederation. This act of declared hostility was speedily followed by an organization of the same States into a confederacy, which levied and waged war by sea and land, against the United States. This war continued more than four years, within which period the rebel armies besieged the national capital, invaded the loyal States, burned their towns and cities, robbed their citizens, destroyed more than 250,000 loyal soldiers, and imposed an increased national burden of not less than \$3,500,000,000, of which seven or eight hundred millions have already been met and paid. From the time these confederated States thus withdrew their representation in Congress and levied war against the United States, the great mass of their people became and were insurgents, rebels, traitors, and all of them assumed and occupied the political, legal, and practical relation of enemies of the United States. This position is established by acts of Congress and judicial decisions, and is recognized repeatedly by the President in public proclamations, documents, and speeches.

Second. The States thus confederated prosecuted their war against the United States to final arbitrament, and did not cease until all their armies were captured, their military power destroyed, their civil officers, state and Confederate, taken prisoners or put to flight, every vestige of state and Confederate government obliterated, their territory overrun and occupied by the federal armies, and their people reduced to the condition of enemies conquered in war, entitled only by public law to such rights, privileges, and conditions as might be vouchsafed by the conqueror. This position is also established by judicial

decisions, and is recognized by the President in public proclamations, documents, and speeches.

Third. Having voluntarily deprived themselves of representation in Congress for the criminal purpose of destroying the federal Union, and having reduced themselves, by the act of levying war, to the condition of public enemies, they have no right to complain of temporary exclusion from Congress; but, on the contrary, having voluntarily renounced the right to representation, and disqualified themselves by crime from participating in the government, the burden now rests upon them, before claiming to be reinstated in their former condition, to show that they are qualified to resume federal relations. In order to do this they must prove that they have established, with the consent of the people, republican forms of government in harmony with the Constitution and laws of the United States, that all hostile purposes have ceased, and should give adequate guarantees against future treason and rebellion — guarantees which shall prove satisfactory to the government against which they rebelled, and by whose arms they were subdued.

Fourth. Having, by this treasonable withdrawal from Congress, and by flagrant rebellion and war, forfeited all civil and political rights and privileges under the federal Constitution, they can only be restored thereto by the permission and authority of that constitutional power against which they rebelled and by which they were subdued.

Fifth. These rebellious enemies were conquered by the people of the United States, acting through all the coördinate branches of the government, and not by the executive department alone. The powers of conqueror are not so vested in the President that he can fix and regulate the terms of settlement and confer congressional representation on conquered rebels and traitors. Nor can

he in any way qualify enemies of the government to exercise its law-making power. The authority to restore rebels to political power in the federal government can be exercised only with the concurrence of all the departments in which political power is vested ; and hence the several proclamations of the President to the people of the Confederate States cannot be considered as extending beyond the purposes declared, and can only be regarded as provisional permission by the commander-in-chief of the army to do certain acts, the effect and validity whereof is to be determined by the constitutional government, and not solely by the executive power.

Sixth. The question before Congress is, then, whether conquered enemies have the right, and shall be permitted at their own pleasure and on their own terms, to participate in making laws for their conquerors ; whether conquered rebels may change their theatre of operations from the battlefield, where they were defeated and overthrown, to the halls of Congress, and through their representatives seize upon the government which they fought to destroy ; whether the national treasury, the army of the nation, its navy, its forts and arsenals, its whole civil administration, its credit, its pensioners, the widows and orphans of those who perished in the war, the public honor, peace, and safety, shall all be turned over to the keeping of its recent enemies without delay, and without imposing such conditions as, in the opinion of Congress, the security of the country and its institutions may demand.

Seventh. The history of mankind exhibits no example of such madness and folly. The instinct of self-preservation protests against it. The surrender by Grant to Lee and by Sherman to Johnston would have been disasters of less magnitude, for new armies would have been raised, new battles fought, and the government saved. The anti-co-

ercise policy which, under pretext of avoiding bloodshed, allowed the Rebellion to take form and gather force, would be surpassed in infamy by the matchless wickedness that would now surrender the halls of Congress to those so recently in rebellion until proper precautions shall have been taken to secure the national faith and the national safety.

Eighth. As has been shown in this report, and in the evidence submitted, no proof has been afforded to Congress of a constituency in any one of the so-called Confederate States, unless we except the State of Tennessee, qualified to elect senators and representatives in Congress. No state constitution or amendment to a state constitution has had the sanction of the people. All the so-called legislation of state conventions and legislatures has been had under military dictation. If the President may, at his will and under his own authority, whether as military commander or chief executive, qualify persons to appoint senators and elect representatives, and empower others to appoint and elect them, he thereby practically controls the organization of the legislative department. The constitutional form of government is thereby practically destroyed, and its powers absorbed in the Executive. And while your committee do not for a moment impute to the President any such design, but cheerfully concede to him the most patriotic motives, they cannot but look with alarm upon a precedent so fraught with danger to the republic.

Ninth. The necessity of providing adequate safeguards for the future, before restoring the insurrectionary States to a participation in the direction of public affairs, is apparent from the bitter hostility to the government and people of the United States yet existing throughout the conquered territory, as proved incontestably by the testimony of many witnesses and by undisputed facts.

Tenth. The conclusion of your committee therefore is

that the so-called Confederate States are not, at present, entitled to representation in the Congress of the United States; that before allowing such representation, adequate security for future peace and safety should be required; that this can be found only in such changes of the organic law as shall determine the civil rights and privileges of all citizens in all parts of the republic, shall place representation on an equitable basis, shall fix a stigma upon treason, and protect the loyal people against future claims for the expenses incurred in support of rebellion and for manumitted slaves, together with an express grant of power in Congress to enforce those provisions. To this end they offer a joint resolution for amending the Constitution of the United States, and the two several bills designed to carry the same into effect, before referred to.

Before closing this report your committee beg leave to state that the specific recommendations submitted by them are the result of mutual concession, after a long and careful comparison of conflicting opinions. Upon a question of such magnitude, infinitely important as it is to the future of the republic, it was not to be expected that all should think alike. Sensible of the imperfections of the scheme, your committee submit it to Congress as the best they could agree upon, in the hope that its imperfections may be cured and its deficiencies supplied by legislative wisdom; and that, when finally adopted, it may tend to restore peace and harmony to the whole country and to place our republican institutions on a more stable foundation.

W. P. FESSENDEN.

JAMES W. GRIMES.

IRA HARRIS.

J. M. HOWARD.

GEORGE H. WILLIAMS.

THADDEUS STEVENS.

ELIHU B. WASHBURNE.

JUSTIN S. MORRILL.

JNO. A. BINGHAM.

ROSCOE CONKLING.

GEORGE S. BOUTWELL.

HENRY T. BLOW.

CHAPTER VIII

RADICAL AND CONSERVATIVE SENATORS

1866-1868

THE preceding chapter has been confined to Senator Fessenden's part in solving the question of reconstruction, but during the same period many duties of a miscellaneous nature were cast upon him. This year (1866) witnessed changes in the Senate which deeply affected Mr. Fessenden. He lost by death two of his firmest and most intimate friends, Senators Collamer and Foot of Vermont. Both were members of the Senate throughout the anti-slavery contests before the civil war and during the weary years of the Rebellion. Mr. Fessenden pronounced one of the obituary addresses upon Mr. Collamer. After speaking of his peculiarities of intellect and character, he said that "no one could better than himself bear testimony to his kindness of heart, his readiness to impart information, and give the advantage of his learning and wisdom to those about him whenever sought or needed. Seated by his side, session after session, for many years, he habitually asked his advice, and sought his aid, whenever embarrassed by doubt or difficulty. He venerated and loved the man as one regarded an older brother upon whose superior knowledge and wisdom and unselfish singleness of heart he feels that in all emergencies he may safely rely."

Mr. Foot was born in the same year as Mr. Fessenden. Their friendship had been, from the beginning, of the closest nature. Mr. Foot had returned to the Senate in

December in apparent health, to be suddenly struck down with a fatal disease. His death was almost dramatic, as he was in full possession of his faculties, conscious that he must die, and in this condition he took leave of his friends. The scene at his deathbed has been described by the clergyman in attendance. "When Mr. Fessenden approached him, he eagerly stretched out his hand, saying, 'My dear friend Fessenden, the man by whose side I have sat so long, whom I have regarded as the model of a statesman and parliamentary leader, on whom I have leaned, and to whom I have looked more than to any other living man for guidance and direction in public affairs, the strong tie which has so long bound us together must now be severed. But, my dear Fessenden, if there is a memory after death, that memory will be active, and I shall recall to mind the whole of our intercourse on earth.' Mr. Fessenden could not speak as he stooped over and kissed the brow of his dying friend, then turned away in silence."

In one of his letters he thus alludes to the death of Mr. Foot: "Perhaps the death of my friend Foot has somewhat affected my spirits. You have probably seen, or soon will see in the papers, Mr. Sunderland's account of his closing hours. No death scene could be more remarkable. No man has ever been so dear to me among all the men with whom I have been associated in public affairs. He attached himself to me from the first hour, and his friendship was constant and unwavering. No hasty word ever passed between us. His death came upon us all so unexpectedly that it has made a profound impression. I can say with truth, that gladly would I give all the little honors I have won to secure a deathbed like his."

Mr. Fessenden's eulogy on Senator Foot, delivered in

the Senate, was marked by unusual feeling. His description of him is here given :—

“ A stranger, Mr. President, upon entering this chamber and casting his eyes around the Senate, could not but be struck with the imposing presence of our departed friend and associate, and attracted by the rare union of mildness and dignity in his expressive features. If he rose to speak, the commanding yet pleasing tones of his voice and the noble grace of his demeanor, the elegance of his language and his clear and forcible statement would deepen the first impression. If called to the chair, as he was more often than any other, that seemed to be the place he was made to fill. There was exhibited his remarkable love of order, his impartiality, his sense of senatorial propriety, his entire fitness to preside over and control the deliberations of what should be a grave, decorous, and dignified body of thoughtful men, charged with great trusts, and alive to their importance. Whatever was in the least degree unbecoming was offensive to his feelings and his taste ; but however these might be offended, he never for a moment forgot what was due to the Senate and to himself, as its officer. Would that his precepts and his example in these particulars may not be forgotten. Often, sir, when we look upon the chair you occupy, however ably and faithfully it may be filled, must we think of him whose admonitions we will remember and to whose unshaken firmness and unwearied patience we were so often indebted for the preservation of that respect which we owe to ourselves.”

There was one passage in the eulogy on Senator Foot which seemed almost prophetic in the light of the storm of abuse which fell upon Mr. Fessenden two years later on account of his vote of “ not guilty ” on the impeachment of President Johnson. It was as follows : “ When,

Mr. President, a man however eminent in other pursuits, and whatever claims he may have to public confidence, becomes a member of this body, he has much to learn and much to endure. Little does he know of what he will have to encounter. He may be well read in public affairs, but he is unaware of the difficulties which must attend and embarrass every effort to render what he may know available and useful. He may be upright in purpose and strong in the belief in his own integrity, but he cannot even dream of the ordeal to which he cannot fail to be exposed; of how much courage he must possess to resist the temptations which daily beset him; of that sensitive shrinking from undeserved censure which he must learn to control; of the ever-recurring contest between a natural desire for public approbation and a sense of public duty; of the load of injustice he must be content to bear, even from those who should be his friends; the imputations of his motives; the sneers and sarcasms of ignorance and malice; all the manifold injuries which partisan or private malignity, disappointed of its objects, may shower upon his unprotected head. All this, if he would retain his integrity, he must learn to bear unmoved, and walk steadily onward in the path of duty, sustained only by the reflection that time may do him justice, or if not, that his individual hopes and aspirations, and even his name among men, should be of little account to him when weighed in the balance against the welfare of a people of whose destiny he is a constituted guardian and defender."

One of Mr. Fessenden's last acts as Secretary of the Treasury was to provide authority for his successor to rearrange and fund the public debt. On the first of January, 1866, the floating debt of the government, including the seven-thirties, amounted to over \$1,600,000,000. Acting upon the recommendation of Secretary McCulloch,

the House passed a bill to extend the act of March 3, 1865, enacted at Mr. Fessenden's instance, and expressly authorized the secretary to reduce the amount of greenbacks by ten millions in the first six months, and afterwards at the rate of four millions each month. In the debate on this bill in the House, Mr. Conkling stated that all the power necessary for converting the bonds and currency already existed under the act of March 3, 1865, and a similar statement was made by the comptroller of the currency in a public letter. The bill passed the House by 83 ayes to 53 noes. Shortly afterwards Mr. Fessenden reported the bill from the committee on finance with its approval and called it up on April 9. Mr. Sherman opposed the measure. He thought there was no necessity for conferring such enormous and dangerous powers upon the secretary. It authorized the secretary to fund the whole debt and gave him power to contract the currency and produce a strain upon the people. He feared the secretary would carry out his policy of reducing the currency. Business men were alarmed, and would not go on with their business. He thought the bill did not carry out the purpose of the House of Representatives, which was to limit the power of the secretary over the legal tender currency.

Mr. Fessenden replied that if the House of Representatives did not understand the bill, it was because they had not given the rein to their imagination, like the senator from Ohio, and assumed that the Secretary of the Treasury had a purpose to accomplish against the wishes of Congress. The bill passed at the last session authorized the secretary to convert any of the interest-bearing obligations of the government into new bonds authorized by the act. After peace came it was the idea of all men acquainted with financial matters that the country should

return to specie payments as soon as it was safe to do so. The secretary took this view, and asked for power to convert the interest-bearing obligations into the new bonds, and the greenbacks also. The idea was received with universal favor, but men calling themselves business men, who wanted an expanded currency, got up an excitement that the secretary intended to devote himself exclusively to contraction, and push it beyond a beneficial extent, and they sought to prevent him from having the power. There was a contest over it in the House, and after being twice recommitted, the present bill was passed. He, Fessenden, would have preferred a stronger bill. It authorized the secretary to convert the interest-bearing obligations and Treasury notes, with the greenbacks, into certain descriptions of bonds, the interest of which was carefully limited, and, to prevent the secretary from abusing his power, limited him to retire not more than ten millions of the greenbacks during the first six months, and after that period, not more than four millions a month. The bill was of consequence, because it recognized the principle that as soon as it could be done, with safety to the country, a return would be made to specie payments. To say that the expanded currency was to be maintained was a calamitous idea, and should be rejected at once. Though everything appeared fair now, a revulsion in trade, which must be avoided, if possible, might occasion severe embarrassment. In this transition state a large discretion over the currency must be given to the secretary. The evils alluded to were imaginary and the result of an excited feeling occasioned by the talk about destroying the business of the country.

Senator Chandler agreed with Mr. Sherman in opposing the bill. Mr. Guthrie of Kentucky, a very able financier, agreed with Mr. Fessenden. The Senate passed the bill

by 32 to 7. The country might possibly have escaped the revulsion of 1873, if the policy of contraction had been adhered to, but Secretary McCulloch became so obnoxious to Republicans that all of his measures were opposed, and his efforts to reduce the volume of paper money caused an outcry from the business world for a continuance of all the currency. The provision for contracting the currency was repealed in 1868, by vote, in the Senate of 33 to 4. Mr. Fessenden opposed the repeal. The country soon entered upon a course of speculation, extravagance in business and railroad construction, which culminated in 1873 in what Mr. Fessenden had feared, financial disturbance.

At this session Senator Fessenden debated the Fortification Bill, and he defended the Treasury Department from an attack by several senators.

The work on the appropriation bills began on March 15, when he called up the Deficiency Bill, which was debated and passed that day. The next day the Naval Appropriation Bill was taken up and passed. On May 16 the Consular and Diplomatic Bill was considered, when an effort was made to raise the rank of the ministers to Belgium and Portugal. Mr. Fessenden opposed raising the rank of these missions to gratify the gentlemen who held them. "The next thing to follow would be an effort to raise their salaries to support the increased rank of their missions." The debate on the Civil Appropriation Bill began on July 19 and lasted a week. There were numerous amendments offered, and Mr. Fessenden was obliged to appeal to have the rules enforced. The bill had come from a committee of conference, and its report was opposed by Wade and Wilson because it did not include a bill for the equalization of bounties. This was the first bill to equalize bounties, and was the beginning

of the tremendous raids upon the Treasury under the guise of equalizing bounties and pensions. Mr. Fessenden opposed it and predicted that it would be followed by others. He said it was not usual for senators to oppose the report from a conference committee which was in accordance with the votes of the Senate. The committee had reported as the Senate wished. The passage of a bounty bill at this session would be a great error. It had not been considered, and was sprung upon an appropriation bill. No bill that could really equalize bounties had been devised. The proposed measure would take \$350,000,000 from the Treasury, and would increase the national debt. When done it should be carefully done and not be a helter-skelter arrangement. It should not be done without a decided call from the people, and not from the demand of soldiers' and sailors' conventions. It was not the payment of a debt; it was strictly a gift, and nothing more. The money given to the soldiers would last but a short time. The taxation for it would endure for years and years.

The report was concurred in by the Senate, but the House refused to concur in it, and finally the Senate accepted the bounty amendment to save the passage of the whole bill by the House. Mr. Fessenden voted against it.

One of the longest and hardest labors of this session was the preparation and discussion of the amended tax bill to reduce taxation and amend the Internal Revenue Bill of 1864. The close of the war necessitated many changes and reductions. There were nearly four thousand lines and two hundred and fifty pages in the bill. The revision was done by the committee on finance, and had consumed four weeks of constant examination. The discussion in the Senate covered four days, Senator Fessenden being the spokesman for the committee. So much

knowledge was required to criticise the details of the bill, that, as a rule, it was accepted as it came from the committee. Senators who had prepared themselves on special points to oppose the recommendations of the committee had warm discussions, but they seldom succeeded in carrying an amendment. The bill was passed by the last of June. Early in July the new tariff bill was reported from the House. This involved even more labor than the tax bill. Mr. Fessenden moved it to be referred to the committee on finance and printed. He remarked that he had followed the discussion over it in the House and was free to say his mind was not convinced of the correctness of some of its conclusions. There were some provisions that were essential and ought to be passed at the present session in some shape. He was, within the limits of the Constitution, what was called a protective tariff man, and would probably adhere to those opinions. The bill was by no means got up for the interest of New England, though the New England vote had been solid for it. He mentioned this as proving "the loyalty of New England, and her disinterestedness, her loyalty to her belief, and to the system she had always advocated."

His care in legislation made him oppose a bill reported by Mr. Chandler authorizing the construction of a telegraph line between Florida and the West Indies. The bill gave an exclusive privilege for twenty-five years and tied the hands of Congress, though Congress reserved the right to amend it. But Mr. Fessenden pointed out that when once the privileges were granted, interference was seldom successful. He thought the bill created a monopoly and tied the hands of Congress; that it made a bad precedent in remitting the duties on materials used in the construction of the line, as Congress had invariably refused to break into the revenue system in favor of

anybody. He suggested several amendments which Mr. Chandler hotly resisted. The Senate passed the bill, giving the exclusive privileges for fourteen years.

Mr. Fessenden thought the experience of the war had induced a looseness in legislation by Congress, which should be corrected by a return to the stricter methods of earlier times. He was cautious and conservative by instinct, and more disposed to restrain the power of Congress than to extend it. There were a number of measures introduced at this session which he regarded as stretches of constitutional power. He said of the bill to incorporate the Niagara Ship Canal Company, that he should oppose it in its then attitude, though he was not inevitably opposed to constructing the canal at a proper time. He had not voted for the Pacific Railroad Bill. He said he was not opposed to the construction of a Pacific railroad, but he had been opposed, even for the purpose of obtaining a considerable good, to violating a constitutional provision, or at any rate to transcending the limits of the power they had under the Constitution. His view was that the Pacific Railroad could be constructed only under the war power connecting the country together for common defense. It should be a national work. National works should not be put into the power of corporations, and this objection was growing stronger, for it was getting to be the case under the legislation of Congress that the country was to be controlled by the great corporations and the legislation was to be controlled by them.

“The senator from Massachusetts had put this on the ground of commercial power. He (Fessenden) was a strict, perhaps a narrow, constructionist. It had only recently been found that under the power to regulate commerce the government had the power to make a communication

through States. It was a modern doctrine. It had been strongly held by the Democracy, and he had agreed with them in this, that where channels of commerce existed by nature, the government had the power to improve them under the power to regulate. But the idea that the government could create new channels like railroads or canals was a doctrine that would lead to a most unlimited expenditure of money, and under the power to regulate was assuming power to create, which, in his judgment, did not exist."

He thought that such works as the Pacific Railroad and the Niagara Ship Canal might be constructed under the war power for national defense, but that the government should not construct such a work and pass it over to a corporation to own and control it. Such works should remain under the control of the government. When the bill relating to interstate commerce came up on July 12, he expressed a constitutional objection to it.

A very interesting legal debate occurred during this session upon the admission of John P. Stockton as senator from New Jersey. He was a Democrat. The Republicans of that State claimed that his election was illegal. It raised a nice question of constitutional law. Mr. Fessenden's opinions upon questions of this kind carried so much weight that a strong appeal was made to him to examine the case. Upon doing so he was clearly of the opinion that the election was not valid. In the debate he was obliged to contend against the authority of the almost unanimous report of the committee on the judiciary, which held that Mr. Stockton was lawfully chosen, and therefore entitled to his seat. The committee was largely Republican, and comprised some of the ablest lawyers in the Senate.

When the subject came up before the Senate on the

22d of March, 1866, the debate against the report of the judiciary committee was opened by Senator Clark of New Hampshire, the only dissenting member of the committee. He was sustained by Mr. Fessenden, who, according to Mr. Blaine in his "Twenty Years of Congress," "left little to be said, as was his habit in debating any question of constitutional law."

There was some keen discussion between Mr. Fessenden, in support of his views, and Messrs. Trumbull and Johnson against it. The Senate sustained Mr. Fessenden by a vote of 22 to 20. One vote would have changed the result. With Mr. Fessenden voted Mr. Sumner, Grimes, Howe, Sherman, and, what was unusual, all of the so-called radicals. In his "Twenty Years of Congress," Mr. Blaine observes that Mr. Fessenden's argument was never refuted by his opponents, and that the best presentation of Mr. Stockton's claim could not evade or even dull it. The decision of the Senate was generally accepted. In a new election by the legislature of New Jersey, Mr. A. G. Cattell, a Republican, was chosen, and took his seat without opposition.

Mr. Fessenden would never allow considerations of sentiment or good nature to influence him to vote for propositions, even when they appealed strongly to his feelings, if he thought they were wrong in principle or would establish a hurtful precedent. He opposed the Bounty Bill as a mere gift, and resisted the proposition to take off the duties from articles to be used in the construction of an international telegraph line, on the ground that it would break into the revenue system. For similar reasons he opposed the resolution to purchase for Congress the law library of James L. Petigru of South Carolina, and the bill to create a higher rank for Lieutenant-General Grant.

Mr. Petigru was an honored citizen of South Carolina, a lawyer, and a courageous patriot, who stood out almost alone to condemn the secession of his State. He maintained this attitude fearlessly throughout the war, and died a supporter of the Union. His library was of no value to the government, but it was proposed to purchase it for \$5000, as a means of assisting his aged widow, who was poor, for his devoted patriotism. Mr. Fessenden regarded the proposition as nothing more than a gift, which Congress had no right to make. While he admitted the merits of Mr. Petigru, he did not think it would be safe to recognize the principle that because an eminent man in the South had remained true to the Union, his family was to be provided for. There was no more propriety in providing for the relatives of an eminent man than for a humble man who had sacrificed all in remaining faithful. The precedent was a bad one, and was doing indirectly what should not be done directly. He considered the proposition an improper one.

Mr. Reverdy Johnson, who was a personal friend of Mr. Petigru, agreed with Mr. Fessenden, and opposed the resolution. It was postponed, but came up again on July 3, when Senator Howe made an eloquent speech in favor of it, giving a glowing account of Judge Petigru's loyalty to the Union. He closed by saying that the Senate should do anything rather than advertise to the enemies among whom Petigru died that the loyalty which so distinguished him was held so cheap by the Senate.

Mr. Fessenden said he had the highest estimation of Judge Petigru and believed him to have been a very bold and patriotic citizen attached to the Republic. He would be glad if he could vote for the proposition. The sum was small, but in connection with the ten thousand other small sums, it would press hard upon the finances. It was the

principle he objected to. There had grown up a great looseness in legislation, and things were put forth every day as received truths under certain clauses of the Constitution that were entirely different from the ideas with which he had commenced public life. A style of legislation with reference to money matters had been adopted which he regarded as exceedingly dangerous. The method by which this expenditure was to be made was a mere evasion. The Senate might as well say that in consideration of his uniform loyalty and eminence it would give his widow \$5000. No one would vote for such a proposition. There was no power under the Constitution to do it. The present proposition was no more than this. It was conceded that it was an old library which Congress did not need. It was proposed to buy it for the sake of the widow. He could not vote for it and was sorry he could not.

The resolution was passed by a vote of 19 to 14.

The House had passed a bill to make General Grant a full general. This rank had been held by Washington during the war of the Revolution. Scott had been made a lieutenant-general by brevet for his services in Mexico. Grant had been promoted to a full lieutenant generalship after the Chatanooga campaign. In the discussion of the bill relating to the pay of the navy, it was proposed to make Farragut a full admiral, with increased pay. Mr. Fessenden said he was willing to raise his pay, but was not disposed to create another office. Farragut had been made our first vice-admiral after his great services had been performed, and he had been put at the head of the navy. The proposed pay was none too much for him, but to make another office was to leave his present office open to somebody else to be promoted to it. There was too great a propensity to hero-worship. He had the highest

respect and admiration for Grant and Farragut. They should be honored for their great services, but there should be a limitation to the disposition to push them forward. He had an objection to creating a new office for either Grant or Farragut. He had thought of this subject anxiously and carefully, and with all his regard for these distinguished men he could not vote to create a new office for them.

Mr. Fessenden also said that while our sense of their great services should be testified to, to every reasonable extent, it was not proper in a republican government to run after men. After these distinguished men had been placed at the very head of their respective professions, Congress ought not then to busy itself with creating new offices for them. It was setting a bad example, which if followed out in a republic would create a great deal of difficulty.

The bill was passed. It was only a moderate recognition of General Grant's services performed since his promotion to the grade of lieutenant-general. Since that promotion he had directed the operations of all the armies of the Union, and had himself commanded the armies of the Potomac and the James in the long campaign of 1864-65 which ended in the surrender of Lee.

It has already been mentioned that Mr. Fessenden opposed the bill to aid the construction of the Union and Central Pacific railroads on the ground that the best location should be first ascertained and then the railroad should be a national work. When he saw it being carried by a union of interests, he regarded it as a mere scheme and would not assent to it.

A similar bill came up in the Senate on July 16, 1866, granting public lands and government bonds to aid the construction of a northern Pacific railroad. He opposed this measure.

On July 21 Mr. Fessenden participated in a debate on the bill to restore Tennessee to her former relations with the Union. The resolution to admit Tennessee had come originally from the committee on reconstruction. Tennessee had a condition distinct from the other States in rebellion, and it was deemed best to state the facts which made her condition different from other States, that the case might not be used as a precedent for admitting others. The amendment now proposed by the judiciary committee varied from the original preamble. Mr. Fessenden had drawn the latter, but the House had changed it, and added other language which he thought was meaningless. He had been in favor of the admission of Tennessee. He objected to the preamble because it substantially declared that any State might be admitted when it adopted the constitutional amendment, before the amendment had been adopted by enough States to make it a part of the Constitution. It was better either to state the reasons for which Tennessee was to be admitted, or else strike out all the reasons, giving none at all, so as to form no precedent with regard to the other States. Every man would then stand upon his own reasons in relation to the matter. He thought the resolution sufficiently asserted the power of Congress over the subject.

During the discussion of a change in the phraseology, Senator Howard said he thought the amplification was useful, to which Mr. Fessenden replied "that amplification was the curse of the body. They have been amplifying all day upon matters as familiar to them as the tips of their fingers, and it was about time to take a vote."

Tennessee was restored to her representation in Congress at this session. One senator had been admitted. In the case of Mr. Patterson, the other, it was admitted that he had taken the oath of allegiance to the Confederate

States, but that it had been forced upon him at the point of the bayonet. Mr. Fessenden remarked that he would not, on a mere rumor, depart from the rule adopted by the Senate; but since it was admitted that Mr. Patterson had taken the oath of the Confederate government, he would vote for a reference of his credentials to the judiciary committee, although circumstances might be shown which would induce him to vote for his admission afterwards. Mr. Patterson was subsequently admitted.

On July 6 a bill of the greatest consequence to the Treasury was called up. Its object was to provide for payments to loyal citizens for supplies taken for the use of the armies. Mr. Fessenden urged that the bill should be confined to citizens of the loyal States, and that such claims urged by citizens of States in insurrection should be proved before the Court of Claims, and not left to be decided by a clerk in the quartermaster-general's department. Without such a restriction the government would be called upon to pay untold millions to persons in the rebellious States for all the property seized in the military operations of the Union armies.

Mr. Fessenden and Mr. Sumner were in accord upon the proposition to publish an official history of the Rebellion by printing the official reports. Mr. Fessenden thought the time had hardly arrived for doing it. When it was done it ought to be done by a competent person. He was in favor of repealing the resolution under which some of the documents had already been published, and providing for having the whole work done by competent persons. In the present state of the finances he thought it better to postpone so expensive a work. The Confederate papers should be printed in juxtaposition with the Union documents.

Mr. Sumner agreed with Mr. Fessenden, and thought

it would be difficult to find a proper person for the work, free from turbulent ambition, willing to live among his books and give his days and nights to serious toil. To which Mr. Reverdy Johnson slyly observed that such a man might perhaps be found in Boston. Then Mr. Fessenden suggested that if Mr. Sumner would resign and take charge of the work, he would agree to serve as his clerk. Mr. Sumner replied that then the work would be surely done. The bill was committed.

In the midst of the severe work at the close of the session came the news of the great Portland fire of July 4, 1866, when a large portion of the city was destroyed, including much of Mr. Fessenden's property. His house, fortunately, was in that part of the town which escaped the conflagration. His office was destroyed and the house belonging to his father, in which his brother Daniel was living with his family. Writing of this on July 8, he said: "I was glad to get your letters, as I had received no direct intelligence. I am most thankful that no lives were lost, and that you are all well sheltered. Our pecuniary losses will be troublesome, but these must be cheerfully borne. I don't see how you contrived to save your books. My greatest expectations did not extend beyond your papers. I hope my dear sons will let their courage arise with the occasion. You have much to do, and I trust you will set about it with brave hearts, and do your whole share in setting things right again. I will come and help you just as soon as my duties here will allow.

"Some are in favor of not adjourning at all, but I see nothing to be gained by staying, and the majority of senators agree with me. I can finish up this week all matters that are essential. Mr. Stevens is determined to stay as long as possible, and his position in the House enables him to obstruct and delay us. Members are terri-

bly afraid of their constituents, and all the office-holders are frightened out of their wits, and write, saying that Congress should not adjourn, a very gross absurdity. I suppose there is not one of my loving friends who would not rather see me die than go out of office himself before next March. To stay here for the mere purpose of enabling people to gnaw the public bone a few months longer is useless, undignified, and can accomplish no good purpose. My powers of endurance are pretty much exhausted. I am glad to spend as much time as possible on the sofa in my committee-room.

“I was not much troubled at my own losses by the fire, even when I found that I had lost pretty much everything, and now my own losses seem to be very trifling. My affliction has been from the beginning for those who have been turned out of their houses, have no place to go to, and nothing to live upon. We must do what we can for them, and it comforts me to think that I can be of more use to them here than at home.”

In no session during his career in the Senate were Mr. Fessenden's labors so varied, so numerous, and so important. As chairman of the committee on finance, besides the usual work of carrying through the appropriation bills, he gave five weeks' study in committee to preparing the long and elaborate Internal Revenue Bill and subsequently gave ten days' debate to securing its passage by the Senate.

Mr. McCulloch, the Secretary of the Treasury, had made himself obnoxious to the Republicans by his support of the President's policy, and was bitterly attacked, even in business matters. Mr. Fessenden defended his administration of the Treasury on January 11, and February 9, and again on the 4th of June. In all these cases the Senate sustained Mr. Fessenden's views.

As chairman of the joint committee on reconstruction, he held the most responsible position connected with the great problem of the restoration of the Southern States, the most important question that had come before Congress since the foundation of the government. On this subject he made five speeches during the session, and wrote the report of the committee.

After the adjournment of Congress he received many invitations to address Republican meetings in other States. One of these was from Governor Bullock of Massachusetts, who, with many leading men of that State, invited him to address the citizens of Massachusetts in Faneuil Hall in Boston. The chairman of the committee, in forwarding the invitation, stated "that it seemed desirable to many Republicans that the voice of New England, as it might be uttered in Faneuil Hall by one of the distinguished public men of the country, should be heard upon the state of the country and duty of patriotic citizens. They had selected Mr. Fessenden as the proper person to give this utterance at such time as might suit his convenience."

In thanking the committee for its invitation, Mr. Fessenden said he was obliged to decline it; for debilitated by a long and most arduous session of Congress and by repeated attacks of illness, he was under the necessity of suspending, as far as possible, all effort and avoiding excitement of any kind.

Similar invitations were received from Philadelphia, New York, and other cities, reinforced by private letters from distinguished citizens, urging him to address the people. But all of these he was obliged to decline. After he had declined the New York invitation, he received from his friend Senator Morgan a note saying that, while he approved Mr. Fessenden's decision for the reason that his

opinions upon public questions were so well known, he wished him to come to his house on his way to Washington, that some of the leading citizens of New York might meet him at an evening reception. "There are many reasons," said Mr. Morgan, "why you should do this. You are, and for a long time have been, at the head of the most important committee of the United States Senate. You are the acknowledged leader of the body. You have been at the head of the committee of fifteen, and you are the author of the report which meets all but the universal approval of the country, and has been most satisfactorily indorsed by the Northern, Western, and Central States, and must, I think, be accepted by the States lately in rebellion. Your acknowledged ability, as well as your high personal character, lead my constituents to desire to pay you a personal compliment of the kind I propose."

Mr. Fessenden accepted this invitation, and had a most agreeable evening. His stay in New York was taken advantage of by the Union League Club, of which Mr. William Jay was then the president, to give him a reception at the club-house, which he attended with much enjoyment. Mr. Jay made him a flattering address, to which Mr. Fessenden responded in his best vein. These were almost the only affairs of the kind he attended during his public life.

On public affairs he wrote to a friend before the meeting of Congress as follows:—

"In a few weeks you know the struggle will begin again. What we are about to meet it is not easy to foresee. The President is obstinate and self-willed, and has had bad advisers around him. Copperheads and ex-rebels are his chosen friends, and with the exception of Stanton his Cabinet are good for nothing, or worse than nothing. — has proved even worse than I thought him. But for

his evil counsels, the President might, in my opinion, have been saved.

“What the President will do, now that the elections have shown him his fate, remains to be seen. I am not seriously apprehensive that he will attempt anything against this Congress. Perhaps such an attempt is not so much to be deprecated after all, for it would precipitate a result and terminate the controversy at once, securing at some cost all we have been struggling for,—the triumph of free principles throughout the land. It is to be hoped, but hardly to be expected, that we may have learned something from experience, and that our next selections for President and Vice-President may be of no doubtful character. But I have little confidence that we shall do any better in the future than in the past. Nothing indicates any improvement in this particular.

“Many people believe that since his utter failure, and manifest proof that the Copperheads can do nothing for him, Mr. Johnson will pause in his career of proscription, and there are some indications in that direction. But he has now gone so far in disregarding the constitutional rights of the Senate, that we shall be obliged, at the next session, to take notice of it, and seek such remedies as legislation may afford. The question is a troublesome one, as the Constitution stands, and our only protection seems to lie in our hold upon the House.

“The recent elections have been so decided that I anticipate no serious trouble, unless it be made by the intemperate folly of some among ourselves. Congress has only to keep cool, act with discretion and firmness, to accomplish all that may be desired. The next presidential election will decide the fate of the country for all future time, and I trust we shall not in the mean time lose public confidence by our own folly.”

The close of this session found Mr. Fessenden very much exhausted, and he writes home, January 12, 1867 :

"The work of the session has told upon me so severely that I think I shall abandon my leadership and refuse to serve longer upon the committee on finance. If I am to stay here four years longer, I must have a little relief from such unremitted labor. Mr. Sherman thinks he is equal to it, and I can afford to let him try, when Mr. Morrill of Vermont will be at hand to help him along. . . . You see that in turn I tell you my troubles. They are not very severe, but will do to talk about. I wish yours were as light as mine. Never mind, my dear cousin, but bear them as well as you can, for my sake. Get as well as you can by April, so that we may begin the gardening operations together. I, too, am longing for the flowers, and still more to be 'fussing round.' It is healthful, if nothing else."

As it was almost the first of August when Congress adjourned, the senators and representatives went home to plunge at once into one of the most important political campaigns that had ever occurred in the United States. A new House of Representatives was to be elected. The question was to be settled by the people whether the President's policy was to be indorsed, or the reconstruction measures of Congress should be upheld. Mr. Fessenden addressed his constituents in Maine, which voted in September. The State was carried by the Republicans by a tremendous majority. All the Northern States followed the example of Maine. The Republican majorities were overwhelming, and the next House of Representatives was three fourths Republican.

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Mr. Fessenden expected an easy session. But though not the most laborious, it turned out the most uncomfortable of his life. This was owing to the impeachment trial. At his own request he was not placed upon either the committee on finance or the committee on appropriations. The Senate assigned him to the committee on foreign relations, made him chairman of the committee on public buildings and grounds, and reappointed him a member of the committee on the library, in which he always took a deep interest. He had at first felt some fear that the judiciary committee of the House would report a resolution to impeach the President, and that it would pass. The suspension of Mr. Stanton by the President, in August, had aroused the hopes of those who favored impeachment. Fortunately the House did not favor this proceeding.

In writing of this he said: "You will have learned that the House has decided not to impeach the President. I am glad of this for many reasons, principally because it is extremely doubtful whether charges against him, such as could justify impeachment, could have been sustained, and because the country needs and demands all the financial relief which can be given by wise legislation. The President has undoubtedly been guilty of very serious offenses, the consequences, I think, of bad temper and of self-confidence, the worst consequence of which has been to encourage the South in its opposition to the measures of Congress, and in keeping alive a spirit of hostility. I doubt, however, if he has committed any specific act which would justify before the world his removal from office. The vote for impeachment would have been still smaller had it not been understood that it would fail. Some thought that consistency required that they should make

fools of themselves. The country will now breathe more freely, and if we can act like sensible men I shall have some hopes of the future. Yet we have many most troublesome problems to solve, while the folly and madness of certain men keep us in constant peril."

On the 15th of January, 1867, a severe attack was made upon Secretary McCulloch and the Treasury, which obliged Mr. Fessenden to defend them.

The Fortieth Congress assembled immediately after the adjournment of the Thirty-ninth, the Republicans being unwilling to leave the President without the control of Congress through the long vacation till December. It was found, too, that the Reconstruction Act did not provide the machinery for accomplishing its purpose. The new Congress at once set to work to supply this deficiency, and the supplementary act was enacted March 19. It was vetoed by the President and finally passed over his veto on the 29th. This being a new Congress, with a number of new members, it was necessary to recast the committees of the Senate. Mr. Fessenden adhered to his resolution to retire from the finance committee, feeling that he could properly do this as the financial affairs of the government were no longer a subject of anxiety. The committee was thenceforth divided into two, and its work was performed by the finance committee and the committee on appropriations. Mr. Sherman became chairman of the first, but without the vexatious and wearisome work of carrying through the appropriations. This labor fell upon Mr. Morrill of Maine, chairman of the new committee on appropriations. Mr. Fessenden wrote home apropos of this change, February 17, 1867:—

"You ask what has become of my resolution to give up one of my committees. The reason is that nobody would consent, so I concluded to worry through this ses-

sion, somehow. Sherman is so anxious to get the finance that I am rather disposed to let him have it. *Entre nous*, they are talking about making me president of the Senate, and two or three persons have asked me if I would take it. It is an easy place, but very stupid, and pays \$8000 per annum — quite a consideration just now. Wade's friends have been at work all the session to give the place to him, on the score of his being the oldest senator. I replied that I could n't have a contest with anybody, but rather thought I might accept if it was the general wish — a pretty difficult condition, under the circumstances. The only real good thing about it would be the chance to rest for a couple of years, if I lived so long. I have had no experience in presiding, but that is not very difficult, I suppose."

March 4. "The King is dead — long live the King!' The Thirty-ninth Congress has just expired, and the Fortieth is born. You may well imagine that after working until after midnight for a whole week, being in the Senate night before last until after 8 A. M. yesterday morning, and last night again until after 12, I don't feel very bright. But it is all finished at last, and pretty well finished but for the loss of the tariff, upon which I bestowed so much hard labor. I am not quite certain, however, that its defeat is a calamity. Time will show. I have pretty much resolved to retire from the finance committee, though the idea is not very well received; but I find that the labors of every session wear upon me much more than that preceding — a common case, I fancy, when a man has so many years upon his head."

During the winter session the division between the radical wing and the more conservative majority of the Republican Senate grew more pronounced. The leading radicals denounced Mr. Fessenden as a conservative, and

his defense of Secretary McCulloch from their attacks provoked their wrath.

The purpose of the new session having been accomplished by the passage of the Supplementary Reconstruction Act, nothing remained but to adjourn. Upon this question there were violent differences of opinion, both between the two houses and between the Republicans of each house. The radical wing, under the lead of Sumner and Chandler in the Senate and Boutwell in the House, proposed to adjourn for short periods, so that Congress would have the power to meet soon and prevent the President from interfering with reconstruction. Mr. Fessenden favored an adjournment to December. Some of those who urged a short adjournment were loud in their assertions that the people expected Congress to remain in session. Mr. Fessenden said he did not believe the people had any expectation about it. It was the fashion for gentlemen to talk about what the people expected. He would like to know what authority they had to speak for the people on the subject? He thought the people of Maine were willing to leave the question to the discretion of himself and his colleagues.

They had transacted their business. The President's hands were tied in reference to appointments. They had provided for the protection of their fellow citizens in the South, and for the institution of republican government there, upon which the people could not act conclusively before December. All was accomplished that gentlemen wished to accomplish. There was nothing to require the assembling of Congress before the usual time.

The Senate voted to adjourn to the first of July, and the House agreed to this proposition.

Senator Fessenden opposed two measures, one designed to aid Republican newspapers in Southern States, by

publishing in their columns the laws of the United States, the other introduced to please the labor organizations by shortening the hours of a day's labor on all United States' works. He said he must dissent from the idea of building up Republican newspapers at the expense of the Treasury. If senators wished to be patriotic, let them put their hands into their own pockets. So to the proposition to make the government pay as much for eight hours' work as other employers paid for ten hours' work, he could not agree to it. It had been found in England that the effect of fixing the hours of labor by trade-unions was to reduce able men of capacity and ambition to the level of the poorest. It worked against the industrious and enterprising.

Congress adjourned on the 30th of March. A special session of the Senate followed, called by President Johnson, to consider nominations to various offices. On the 11th of April, after many nominations had been confirmed, when a motion to adjourn on a fixed day was under consideration, Mr. Fessenden opposed it for the reason that there might be on that day forty or fifty nominations yet to be acted upon. If the Senate rejected them and adjourned without giving time to the President to fill those vacancies, they would be leaving the business of the country not done.

Mr. Chandler was ready to take the responsibility of adjourning. The President should nominate for the offices the men who elected him. He (Chandler) would not be driven into confirming Copperheads. If the President was an obstacle to running the government, they could find out between the present time and July how to run the government without him.

Mr. Fessenden said he thought that the President was just as much a part of the government as the Senate or

the House, and could just as well say that he would find a way to run the government without them. The President could not commit an impeachable offense by nominating officers, and he had a right legally and constitutionally to designate to the Senate those whom he preferred for office. The rights of the President could not be winked out of sight. The question was, What was the duty of the Senate? There were others besides the President and Senate concerned in this question, and those were the people who wanted these offices filled. Every day the President sent in names that were confirmed. The Senate should wait with a proper degree of patience. The President was no longer acting with the Republicans, and they must accept the situation and make the best of it.

Writing of the political situation, he said: "Impeachment may be considered at rest. It has been a miserable farce from the beginning, and will soon become contemptible. Its leaders are pretty much so already, as the people have begun to perceive their miserable self-seeking. General Butler has succeeded in using himself up by his insolent assumption, and his power of making mischief will be much less in the future. Quiet is not to be expected with so much explosive material about; but a gleam of sense makes its appearance occasionally.

"Congress has adjourned to the first Wednesday in July. It is intended that this should be merely a matter of form, a sort of notice to the President that if he does not behave well we shall be after him. Others hope to get Congress together and impeach him. Our famous Tenure of Office Bill has put us in a fix. Either the Senate must yield and stay here all summer, or go home leaving important offices not filled, unless the President yields or a compromise is made. The Tenure Bill was

against my judgment. The truth is, we are disgusting all sensible people very fast and shall feel the consequences when the voting comes.

"I find it is a great relief to be off the committee on finance, though I am every day called on to advise my successors."

To Freeman H. Morse, in London, he writes: "We are doing some very foolish things in Congress, and others still more foolish are attempted. The effort to impeach the President will fail. The whole thing is mere madness. All this I say without reference to the question of guilt or innocence, for upon that I have no opinion. Granting impeachable offenses, however, they are not so palpable as to command general assent, or to divest such a proceeding of all party aims or objects. The people have tried and convicted him, and there he should be left.

"I am becoming disgusted with public life. Treachery on one hand and folly on the other have almost disheartened me."

At this time he received a letter from S. R. Mallory, formerly a senator from Florida, and during the civil war a leading member of the Jefferson Davis cabinet. Mr. Mallory wrote at the suggestion of a mutual friend, asking Mr. Fessenden's influence with the President in favor of a pardon for which he had made an application. His confinement in Fort Lafayette had prostrated his health. He had lost all his property, and the prohibition upon the practice of his profession in the federal courts had deprived him to a large extent of the means of supporting those dependent upon him. Mr. Mallory added that he was willing to accept the conditions imposed upon the South, and conform to them in good faith.

PORTLAND, May 9, 1867.

Sir, — Your letter of the 20th ult. has been received. Though a deep sufferer by the late Rebellion, I indulge in no animosities against those engaged in it, and am looking hopefully for the time when the condition of the country shall be such as to render a very general amnesty safe and desirable. My opinion, however, is that executive clemency should not be extended to those who have borne so prominent a part as yourself until the seceding States shall have been restored to their former condition in the Union, and then only in cases where it can be shown that a sincere effort had been made to repair the injuries inflicted upon the country, by conforming in good faith to the new order of affairs.

While, therefore, I sincerely regret the sufferings to which you are exposed, I cannot, at present, interfere for your relief. I hope, however, the time will soon arrive when I can do so, consistently with my ideas of duty. The opportunity is now presented to all the seceding States to restore themselves, and your individual efforts to accomplish the desired result will undoubtedly be appreciated.

Assuring you that I entertain no feelings of unkindness towards yourself, and should be glad, under other circumstances, to be of service to you, I remain,

Respectfully, W. P. FESSENDEN.

HON. MR. MALLORY.

Congress reassembled on the 3d of July, 1867. The division between the extremists and the conservative majority of the Republicans was quickly manifested. The former proposed to take up general business and keep Congress in session, while the latter wished first to consult and, as far as possible, do nothing beyond what the

political situation required. As soon as the Senate had met and fixed the hour for its daily meeting, Mr. Sumner rose and offered some petitions.

Mr. Fessenden said he deemed it especially inadvisable to proceed to general business, and thought all such matters should be laid upon the table until the two houses could deliberate and settle the question whether they would go into general business, or if not, what particular business they would take up. They had come together with reference to a single question. He should, therefore, object to referring any matters to their appropriate committee until they had come to a definite conclusion as to what they should do.

Mr. Sumner replied that they were a Congress and had the power to attend to anything that concerned the republic. There was the President, the great disturber, and it was the duty of Congress to be on guard.

Mr. Fessenden said that the senator had laid down two propositions from which he did not differ. He agreed that they were a Congress, and had the power to do business. The question was what each senator's sense of responsibility would, in his own judgment, render it necessary that he should act upon. Each senator must determine for himself, and though they did not all have the power of prophecy which his honorable friend from Massachusetts had, to tell exactly what ought to be done, and the way to do it, yet each had his own opinions and was ready and able to act upon them. His proposition was, that, for a day or two, actions upon petitions or bills should be suspended until they could consider what was best to be done.

A measure passed at this session, and which originated in the Senate, was the bill making appropriations for executing the provisions of the Reconstruction Act. It raised an interesting inquiry as to the power of the Senate to

originate an appropriation bill. The House of Representatives had always claimed that the power to originate an appropriation bill belonged exclusively to that body. Such had been the practice. When the bill was under discussion in the Senate on July 13, Mr. Hendricks inquired of Mr. Fessenden if it was not unusual to originate an appropriation bill in the Senate. Mr. Fessenden replied that there was no constitutional objection to originating an appropriation bill in the Senate, because the constitutional provision applied only to bills for raising revenue and not to bills appropriating revenue. The custom had been to originate them in the other house. He recollected that the Senate, to expedite business, once originated an appropriation bill and sent it to the House, but the House objected to it, though it immediately adopted it as its own, originating it as a new bill. The House had uniformly objected to the Senate originating appropriation bills every day for specific purposes, though not the general appropriation bills. In the present instance he presumed the House would make no objection, as the bill appropriated a sum for a specific purpose. There was no constitutional objection to it.

A more important question, which called out very decided views from Mr. Fessenden, came up on July 15, in the debate over the message of President Johnson giving information upon the expense of carrying out the reconstruction acts. The President had said the expense would be largely increased if Congress, by abolishing the state governments, made the federal government responsible for the liabilities of the States. He stated the legitimate debt of those States to be more than one hundred millions, and if the federal government made itself liable for those debts by taking the place of those state governments, it might impair the national credit.

Mr. Fessenden said he regretted that the President had brought the subject before them in the shape it was. It was so fallacious, and had so little foundation, that the President was not justified in making the suggestion. He acceded to the doctrine laid down by the senator from Indiana (Mr. Hendricks), that a conqueror in acquiring territory by conquest did not take it free from the obligations of the conquered government existing at the commencement of hostilities. But as he stated it, with the inference he drew from it, it was quite as fallacious when applied to existing facts. The foundation of the doctrine was that if one nation absorbed a conquered country, deprived it of all revenues, power, and responsibility, it made itself the heir of the other obligations. That doctrine had no application to the existing state of facts. When a nation made war upon another to enforce its own rights, and in doing so interfered with the latter's obligations towards a third independent nation, that last had no just ground of complaint, because every nation had a right to enforce its just claims; and if from the necessity of the case claims were interfered with or postponed, it was no cause of offense against the nation seeking to enforce its own. And if it became necessary for the conqueror to hold in subjection for a time the conquered nation, it had a right to do so, and did not by that course subject itself to be called upon by third parties to meet their claims. The question was whether the conqueror went farther than was necessary, and deprived the conquered of all power of meeting claims upon it.

The United States stood in a better situation than that. The obligation that a State in the Union could assume was perfectly understood by all the world, whether it was towards an individual or a foreign government. That obligation was totally independent of the United States. It

was like the obligation of an individual. The United States was in no way bound to enforce it, except not to improperly interfere to prevent the payment by a State of its obligations. If the United States did improperly interfere, they might thus lay the foundation of an equitable claim.

What was the condition of things here? The United States simply enforced their own rights of government and their own rights of property. They went no farther. Nobody could pretend that the United States had so absorbed these people, or so deprived them of power, as to prevent the enforcement of any just claim against them. Nobody could pretend that the United States had placed themselves in a condition where they were bound to discharge the obligations of these States. The pretense seemed to him an idle one, having no just ground for the suggestion made in the message. When the time had come that the United States had shown that these States should never exist again as States, had deprived them of all power to discharge their obligations, had destroyed them as a people and as a government, it would then be time for claimants upon those States to say that the United States had assumed their obligations. Until then any suggestion like that in the message was uncalled for.

In the debate of July 18, over Indian affairs, it was proposed to confer certain powers upon the general of the army rather than upon the President, to settle the difficulties. Mr. Fessenden replied that it was the business of the Secretary of War under the President to look after such matters. They belonged to the secretary, who was distinguished for his devotion to his duties. It was going too far to intrust these things to the commanding general except as an executive officer. He had the highest respect for General Grant, but did not think it proper to

intrust affairs to him which belonged to the War Department under the direction of Congress. He thought they ought to pause and inquire if they were not setting at defiance the great rules which regulated the conduct of affairs as between the civil and the military. An amendment putting the matter in charge of the Secretary of War was then adopted.

The radical minority of the Republican senators had strongly urged that Congress should remain in session. They had denounced the President as guilty of crimes, and had advocated his impeachment. Mr. Fessenden had favored an adjournment to December, and had expressed an opinion against senators condemning the President in advance, and had advised against the policy of impeachment as a party measure. The feeling of the radicals was now so bitter against Mr. Fessenden that on the last day of the session Chandler and Sumner made what seemed to be a deliberately planned attack upon him. Mr. Chandler made the motion that the secretary of the Senate be directed not to communicate their resolution of adjournment to the House. Having thus obtained the floor, he proceeded to deliver a well-prepared speech against Mr. Fessenden in particular and conservatism in general.

Mr. Chandler said that the same parties who, in the month of April, favored an adjournment to December, now wished to adjourn over to the same time. The conservative senator from Maine had then said, "if there was need of an extra session that the President would call Congress together." He had then informed that conservative senator that the only occasion for an extra session would be the refusal of the President to enforce the law, and that the President would not call them together to enforce a law which he refused to enforce. He had hoped he was mistaken, and the conservative senator from

Maine was right, that there would be no necessity for another session. But, unfortunately, that conservative senator was mistaken. As that conservative senator had full confidence in the President then, he supposed he had the same confidence now. There was no doubt now what the President would do, for he had substantially declared that he would not execute the laws of Congress. They had surrounded the President with nets of zephyr, and yet they proposed to go away for four months and a half and leave him with all the power of the government.

There was a hybrid conservatism which had faith in Andrew Johnson. It was a hybrid that started in 1862 with Mr. Seward and others. Conservatism was buried at that time, and did not raise its head till after the war. But since that reappearance, conservative Republicanism had had its path marked with tombstones. The people were opposed to the adjournment of Congress until laws had been passed which would make it safe to adjourn.

This unexpected attack awakened the deepest interest, and Mr. Fessenden arose amidst the concentrated attention of the Senate. He said he had been somewhat puzzled as to whether he should reply to the senator from Michigan. It was evident that this thoroughly digested speech of the senator was meant particularly as an attack upon himself. He had been alluded to as the "conservative senator" over and over again, and the senator described two occasions when "the conservatives," as he called them, had endeavored to unite with the Democrats to overthrow the Republican party.

It was impossible to mistake the aim of the senator. He had for some time been aware that that senator, with others, had designed to injure his standing in the party to which he belonged. They had represented him as unfaithful because he did not agree with them in their

notions about public affairs. Up to that time he had not thought it worth noticing. His notion was that the people would judge him from what he did and from what he said. He had been aware that this was the object of the senator from Michigan, because he had lately received from the city where that senator lived a newspaper slip in which a similar attack was made, and in which he was denounced as opposing impeachment because he had friends and relatives in office. The accusation had gone the rounds of the newspapers that he was ready to sacrifice his public duty for the protection of those friends and relatives. He believed the Detroit newspapers had said he had forty relatives in office. It so happened that he had three brothers who held office under the President, and it so happened that neither of them was appointed at his request or by his suggestion. He believed they would despise him in their hearts if they thought that he would sacrifice one iota of his belief, or hold his tongue, for a moment, on their account. They were made of different stuff.

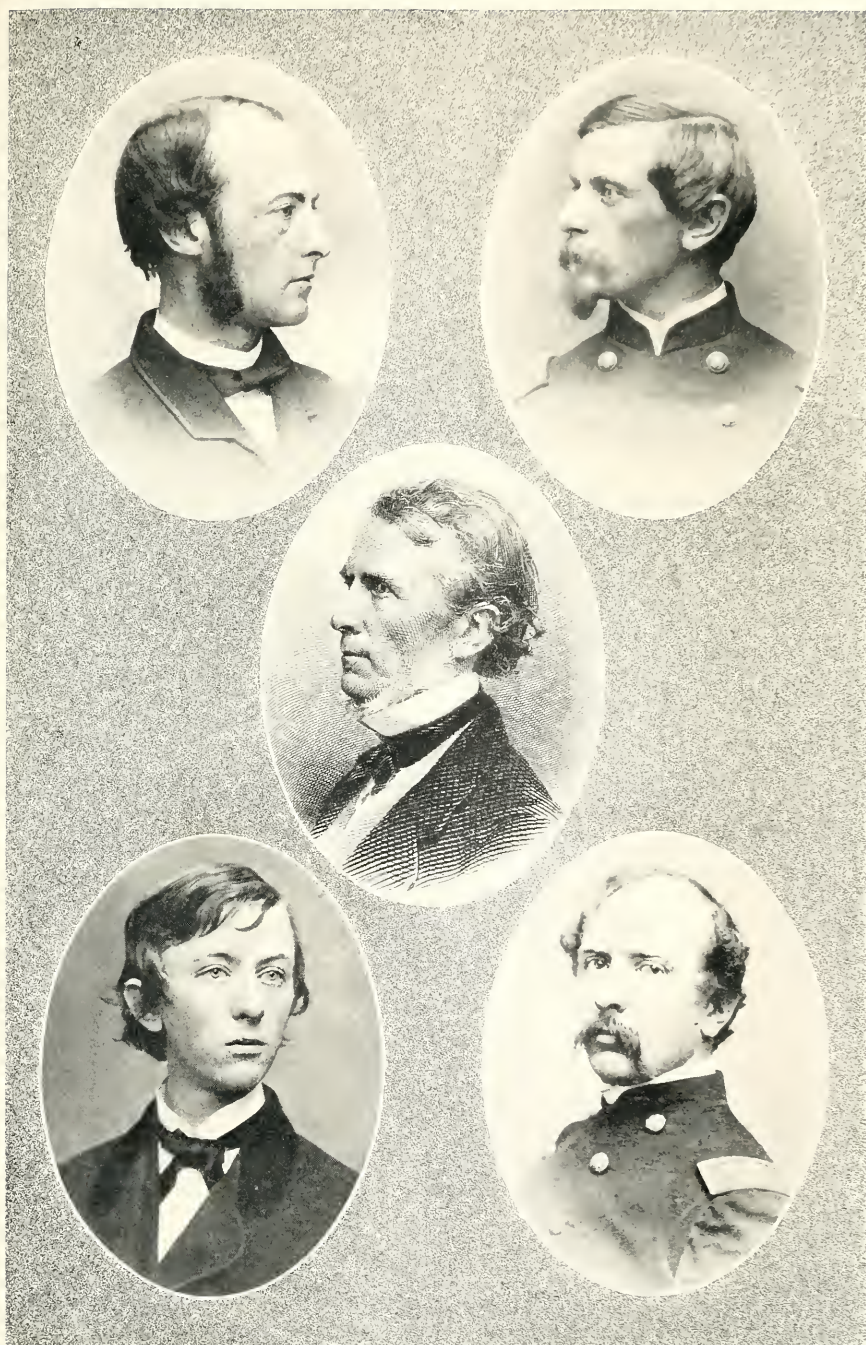
"I have," said Mr. Fessenden, "been twitted in the newspapers that my sons were generals in the army. God gave me four sons" (the senator paused, evidently suppressing deep emotion). "Three of them volunteered, and the other volunteered, also, but his health broke down, and he was obliged to stay at home, much to his regret and sorrow. My youngest fell upon his first field. Another had his arm shattered and his leg shot off. The third was not wounded, but served and fought in twenty battles. I never asked for the appointment of one of them to any office. They got their recommendations from their superior officers, and were appointed generals, not on my recommendation. I did not ask for it. I told them they must fight their own way. Perhaps my standing in the

Senate might have been a benefit to them in that particular, and my kindly relations with the Secretary of War. The two that now live are out of the service.

“Sir, I have thought it rather hard that newspapers of my own party should abuse me for having sons who distinguished themselves in the war, one of whom was killed and another shattered. They served their country well, and rose to high rank, which I believe they deserved. I never heard it said they did not, and it appears strange that I should be abused in the newspapers of my own party for that which in others would have been considered a meritorious distinction, — having sons and giving them to the service of their country.”

He added that at the commencement of Mr. Lincoln's administration he was offered an appointment abroad for one of his sons, and he declined it because there were too many others in his State who needed those offices; that after this son volunteered he asked his friend, the Secretary of War (Mr. Cameron), if he thought him worthy, to give him a commission, which he did. That young man was the one who had his arm shattered in his first battle, and a leg shot off in another, and who was nominated, — not at his request, not on his suggestion, — being then a colonel, for brigadier-general, and was confirmed by the Senate without being referred, for the gallantry of the action in which he had been.

“I am called a ‘conservative’ by the honorable senator, and he has shown what he means by conservatism — men who act with the Democracy against his own party. Let senators turn to the record of my votes in this body and find where I have fallen short. Confidence in Andrew Johnson, is it? No, sir, it is a want of confidence that actuates me, and some others, in those who would assume to direct what they have not the capacity to direct.



SENATOR FESSENDEN AND HIS SONS

WILLIAM
SAMUEL

JAMES
FRANCIS

“Sir, if I am a conservative by my vote on this question and others, I am a conservative in company with the honorable senator from Illinois (Mr. Trumbull), with the honorable senator from New York, and from New Jersey, and from Rhode Island, and from New Hampshire, and on this question, as taken at the last session, with one of the senators from Massachusetts (Mr. Wilson). Is he a conservative, too? And there are other honorable gentlemen I can name. Why, then, is this attack made upon me because I happen to act with a decided majority in this body on this question? Sir, we must be at liberty upon great questions of this kind to exercise our own judgments. I have no fear of the most critical examination of my course in this Senate and out of it, upon this question and all other questions. I shall leave my public record to take care of itself. If I had the slightest idea that anything the senator from Michigan can say would affect it before the people of this country, I should look upon myself with a contempt which I do not feel at present.”

Mr. Fessenden then said the time had come undoubtedly when there was a serious difference in Congress upon an important question. Upon that question he had not considered it proper for a senator to express an opinion, or, if he could avoid it, to form an opinion. (Mr. Fessenden referred to charges of impeachment against the President.) His idea was that a man who was to be a judge and try another under the sanctity and solemnity of an oath, was bound, as an honest and conscientious man, not only not to form an opinion, but to keep his mind free from prejudice or passion, so that he might come to the examination of it calmly, resolved to try honestly, and decide fairly, without feeling, without anger, without malice, and without having committed himself by denun-

ciations of the individual. Others thought it proper to come to such an examination with temper, with malignity, and with every effort to excite the public mind.

With regard to that great question as a matter of policy and good sense, he had not withheld his opinion from his friends or from anybody who wanted it, and perhaps that opinion was well understood. He would await events. When they came, he would meet them in his place, and he hoped with an honest and pure mind. Whether he was in the majority or minority would make no difference to him personally.

It did make some difference to him how he was judged by the country, and he would leave the country to decide upon so insignificant a matter as what his public course had been. He hoped to be tried with his record, what he had voted for. So long as he was in company with the senators he had named, and with all the senators from New England, except perhaps one, and was sustained by them in the course he had taken, he should endeavor to rest as quiet as possible under the denunciation of even so potent a man as the senator from Michigan.

Mr. Chandler made a sharp reply, saying he had never alluded to the senator's family, had never written a line for a newspaper, and had never seen the article referred to. He took the senator up on his public record. The senator stood there month after month, the defender of Andrew Johnson and his Cabinet.

Mr. Fessenden observed that as to that, the senator stated what was not true, and he could not prove any portion of it.

Mr. Chandler considered it as defending Andrew Johnson, to say the President would call a session of Congress if necessary. The senator had stood up in the Senate week after week defending the Secretary of the

Treasury. The senator had nearly defeated a call for an extra session the previous spring. The people wished them to stay in session until the hands of Andrew Johnson were tied and he could do no more harm to the nation.

A motion to adjourn was then made, and Mr. Sumner asked leave to introduce a proposition to the Senate and have it printed. Permission being granted, Mr. Sumner proceeded to read some long resolutions, which he said *he* would read, as they were in his own handwriting. They were entitled, "Resolutions declaring the privilege of debate in the Senate with regard to civil officers liable to impeachment," and were aimed at Mr. Fessenden's declaration that senators who were sworn to try a man, ought to come to the examination without anger or malice, and without denunciation. The resolutions declared that the idea that senators could not consider and condemn the conduct of an officer liable to impeachment was inconsistent with the privileges of debate in the Senate and tended to shield misconduct in office; and that until the judicial oath required by the Constitution to be taken in a trial had been administered, it was the duty of a senator to express his opinion openly on the conduct of an officer, and invite the judgment of the country upon it. The resolutions were received and ordered to be printed.

In the controversy with Senator Chandler Mr. Fessenden had the sympathy of the great majority of the Senate from his first words. When he began to speak of his sons, he was almost overcome with his feelings. Mr. Dawes, in describing the scene afterwards, said that half the Senate was in tears. The attack was coolly prepared and entirely unprovoked. His constant defense of Secretary McCulloch, his opposition to a continuous session,

and his plainly expressed opinion against the policy of impeachment as a party measure occasioned the complaints and criticism of his opponents, and their friends adopted a course of abusing Mr. Fessenden, which they believed would be grateful to their supporters. Two newspapers especially, the Detroit paper and the "Boston Commonwealth," violently assailed him, and charged that he supported the President to keep his friends and relatives in office.

The onslaught of the radicals upon Mr. Fessenden was followed by Mr. Sumner's criticism of him as reported by a newspaper interviewer. The account was printed in the "Boston Advertiser" of August 30. It was one of the first examples of publishing the opinions of a prominent man through the medium of an interview. But happily it is almost the only instance where a senator in a public utterance deliberately disparaged brother senators of his own party who disagreed with him. The interview ranged over public affairs, besides including his complaints of the leading Republican senators. President Johnson was denounced as "pig-headed and brutal." "He was a usurper and a tyrant." "His crime was shared by Congress." "Congress had hesitated every important question." "But," said Mr. Sumner, "I am blameless." He then said that he had never doubted the President would be impeached; that he would not say what judgment he should pronounce, but he had always felt it proper to say what he thought of him and his sense of the duty of proceeding against him; that the best men in the House were in favor of impeachment; that most of those in the Senate who thought it indecent to speak plainly of the President visited him and asked him for offices. "I do not like," said Mr. Sumner, "to speak of any of my associates except most kindly," and then proceeded as follows: —

“Edmunds was a prodigy of technicality and obstructiveness. So was Conkling, who was a young man of admirable talents, and with a great future, if he did not get shipwrecked in the beginning. Patterson and Frelinghuysen had good sentiments, but it was strange they did not see that something more was needed in dealing with Johnson. But of all these Fessenden was the captain.”

His interviewer (Mr. Redpath), who was himself a radical, here said to Mr. Sumner that he would like a photograph of Fessenden, adding, he understood Wendell Phillips had called him a dyspeptic Scotch terrier.

Mr. Sumner again replied, “I do not know whether to answer or not. For several years he has been very unkind to me, unaccountably so. I cannot comprehend it. Sometimes it seemed to me akin to insanity. It is said by his friends to be chronic dyspepsia. I never alluded to him in debate except with respect. He has always been against my ideas, but why should he contend personally? I cannot explain it. All of the slave-masters together never wounded me as did this colleague from New England. Such conduct in one so conspicuous was an evil example in the Senate.”

“What order of talent has Mr. Fessenden?”

“His peculiar talent,” replied Mr. Sumner, “is controversial. His forte is personality. He runs to personalities as a duck to water, — if not in language, then in manner and tone. Until he gets heated he is dull. He always quarreled with everybody over the appropriation bills which he conducted. John Sherman in the same place is always amiable. Fessenden comes into the debate as the Missouri enters the Mississippi, and discolors it with temper filled and surcharged with sediment. But he has not the volume of the great river. He is of much finer fibre than Andrew Johnson, but resembles the President in

prejudice and combativeness. His words are more select and his sentences better. He is accurate in speech and logical in form. As a lawyer he is of the *nisi prius* order. There is nothing of the jurist in his attainments or nature. From his position he has exercised much influence in the Senate, but from the beginning he has been a drag on reconstruction. But his report on reconstruction is excellent. It is the best thing he ever did, and contains no personality.

"He and the late Judge Collamer were good friends and sat side by side. But on one occasion he flashed out on the judge as upon everybody else. I think the passage was suppressed in the 'Globe.'

"You are right in your curiosity about Fessenden, for his situation is now peculiar. He is the head of the obstructives. If any person calling himself a Republican takes the side of the President, it will be Mr. Fessenden."

Mr. Sumner began his criticism with the remark that Mr. Fessenden's friends attributed his dislike of Sumner to chronic dyspepsia. Mr. Fessenden's friends never said it, but Mr. Sumner's friends often asserted it. It originated with Mr. Sumner, and his complaints to his friends caused them to repeat the cry. Wendell Phillips joined in the chorus. The newspapers which sympathized with them circulated the story. The charge of "dyspepsia" was so often repeated that it was almost accepted as a truth. As a matter of fact, Mr. Fessenden did not suffer from that disease.

Of Mr. Fessenden's powers in debate, which Stephen A. Douglas described as the greatest in Congress, Mr. Sumner said, "His talent is controversial. His forte is personality, if not in language, then in manner and tone." "He quarreled over the appropriation bills, while Mr. Sherman was always courteous." "He came into the

debate as the Missouri enters the Mississippi, surcharged with sediment; but he has not the volume of the great river."

Mr. Sumner's insinuation, that it was Mr. Fessenden's friends instead of himself who attributed his unkindness towards Sumner to chronic dyspepsia, was as unfounded as his assertion that Mr. Fessenden "once flashed on his friend Judge Collamer as he did upon everybody else." Mr. Fessenden and Judge Collamer while in the Senate were on terms of brotherly affection and confidence. The story is untrue.

Senator Grimes wrote concerning the newspaper interview, that he had never been so incensed, and he regarded it as perfectly infamous. The conversation was just what he would have expected from Sumner, but he was astounded to see it in the "Boston Advertiser." He expected that in a little while every public man would once a month get a stenographer into his closet and then safely traduce his absent adversaries, taking proper precautions that his bitter malignity and slander should be published in some "respectable daily." He had received a copy under Ben Butler's frank and fifteen or twenty copies from one source or another. The "Chicago Tribune" had received a copy under Wade's frank. He thought the autumn elections would show a reaction against the radicals.

Mr. Fessenden replied to Mr. Grimes as follows:—

PORTLAND, September 20, 1867.

MY DEAR GRIMES, — I have finished my evening cigar, and, as it happened to be a good one, I am in a most amiable condition. Besides the cigar, I am just now in excellent health, eat well (in spite of the chronic dyspepsia which my friends assign me in excuse of bad temper), sleep well, and my garden flourishes. Should not these happy

circumstances and surroundings enable me to bear even Mr. Sumner's philippics with a reasonable degree of equanimity?

The truth is I did n't get angry with Sumner *this time*. The whole thing was exquisitely funny. All the world this way is laughing at him for making such an ass of himself. It was very manifest that the thing was deliberately got up. I will bet you a guinea he either had a week to prepare or took that time to revise the manuscript.

I have recently returned from a water excursion to St. John and along shore, in company with Hooper and Conkling. We talked very fully of Sumner's manifesto, and Phillips's letter found us at Eastport. Conkling was evidently very much annoyed and thought he should take occasion to have a friendly talk with Sumner. He says that Phillips's letter, so far as it regarded me, was but a repetition of what he had heard Sumner say in the cars when riding from the Capitol. I have not heard from Edmunds. As both of them were fond of complimenting Sumner, I shall let them settle the matter in their own way.

Is it true that Wilson has written a letter avowing himself in favor of impeachment? If so, he has not acted with his usual discretion. Keep cool, my friend, enjoy your leisure, and come back full of love for all your associates, particularly for the writer, who is, as always, yours.

STAFFORD, Vt., October 20, 1893.

DEAR GENERAL, — In reply to your favor of the 16th inst., I have no remembrance of any incident such as Mr. Pierce has recorded. Your father was a very faithful listener to the proceedings of the Senate, never writing letters or reading newspapers there; but talking to near

associates aloud was then, as it is now, a common practice, and this was probably the extent of your father's offense. Senator Sumner was very sensitive, and undoubtedly felt aggrieved by any lack of attention. Your father was a practical conservative statesman. Sumner was more sentimental and radical, and in any eulogies on deceased members he indulged in observations which could not at the time be replied to, which rather exasperated your father. Sumner made great orations; your father was the best and readiest debater I have ever heard in the U. S. Senate. Sumner was much respected for his learning on international law, but on all other law questions the lawyers of the Senate gave him very little attention, while much was ever awarded to your father.

The relations between your father and Sumner were occasionally cool and distant, and then as familiar as brothers, greeting the one as "Pitt" and the other as "Charles."

Thus, in a very off-hand manner, I have given you more, perhaps, than you asked for. I respected Sumner and admired your father.

I am going to Washington Monday next, and am glad to say my health is better.

Very sincerely yours,

JUSTIN S. MORRILL.

General FRANCIS FESSENDEN, Portland, Maine.

UNITED STATES SENATE, WASHINGTON, D. C., August 17, 1893.

GENERAL FRANCIS FESSENDEN, Portland, Maine.

My dear General, — In your letter of July 6 you say: "Mr. E. L. Pierce, who has just published his elaborate and interesting biography of Charles Sumner, says that Mr. Fessenden so far forgot himself at times as to talk audibly in the Senate while Sumner was speaking, and

quotes John Conness as saying that Fessenden was always snapping at Sumner in debate."

You ask me to talk with Mr. Sherman and obtain for you his recollections and impressions upon the above point. I have had that conversation, and submit to you with pleasure what Mr. Sherman says.

"I knew Mr. Fessenden very intimately from my entrance into the Senate until his death. I was a member with him of the committee on finance, until he resigned his position, and I took his place. My seat in the Senate was not far from his, and I feel sure that if he had been guilty of the discourtesy of talking audibly in the Senate while Mr. Sumner was speaking, I should have observed it. No such discourtesy by Mr. Fessenden was noticed by me. He may, as senators frequently do, have conversed in an undertone with others while Mr. Sumner or any one else was speaking, but that, you know, is a universal practice. That he and Sumner did not like each other was manifest in many ways, but chiefly in sharp debate. Both were distinguished, Fessenden for keen analytic discussion of all questions, and Sumner for his devotion to the emancipation and elevation of the colored people. Fessenden was courteous in debate, although sometimes rather sharp and cynical. Sumner was a profound egotist and expected every one to defer to his opinion. I had myself some passages with Sumner because I was not willing to yield to his arrogant manner; but in spite of this, our relations were pleasant and friendly."

Yours very truly,

WM. P. FRYE.

October 21, 1893.

GEN'L FRANCIS FESSENDEN, Portland, Maine.

My dear Sir,—Yours of the 16th inst., asking my recollections as to whether Mr. Fessenden at times so far

forgot himself as to talk audibly in the Senate while Mr. Sumner was speaking, was duly received. I have no recollection of ever hearing Mr. Fessenden, while a member of the Senate, talking audibly to the annoyance of any one who was speaking; so far from it, there was no member of the Senate with whom I served more observant of the proprieties of the Senate, or more courteous at all times to its members than Mr. Fessenden.

I have often wished that some one familiar with the extraordinary and unscrupulous means resorted to to convict President Johnson would prepare a truthful history of that trial. I have not the material at hand from which to prepare such an account, and should be unwilling to make any statements, however true, unless I had at hand conclusive evidence of their accuracy. The conduct of Butler's committee, of some senators and outside persons, during the trial, and the pressure brought to bear upon senators to induce them to vote for conviction would, if made known and exposed, consign to everlasting infamy the names of many of the most clamorous advocates for conviction.

Yours very truly,

LYMAN TRUMBULL.

On the 14th of January, 1868, in executive session, Mr. Fessenden spoke in defense of Secretary Stanton, who had been unjustly charged with being responsible for the sufferings of Union soldiers while prisoners of war. The speech, though unpremeditated, made a profound sensation in the Senate. Being made in secret session, it was not reported. The charges against Mr. Stanton had been made the previous day in executive session. Late that evening, in executive session, the charges were repeated, when Mr. Fessenden made an eloquent defense of the great Secretary of War. The speech silenced his accusers.

The completeness of the vindication was reported to Mr. Stanton, who immediately wrote the following acknowledgment:—

WASHINGTON, January, 1868.

MY DEAR FRIEND, — You have my thanks and gratitude ever and forever. I will see you some time to-day.

Yours,

EDWIN M. STANTON.

But in the following letter to Mr. Fessenden's son Mr. Stanton expressed in fuller terms his appreciation of the speech.

MY DEAR FRIEND,—It gives me great pleasure to acknowledge to you the great and inestimable service rendered me by your father in my vindication against the aspersions and calumnies that have recently beset me. His speech in my behalf electrified the Senate and is regarded by those who had the good fortune to hear him as surpassing anything ever heard in the Senate. Unfortunately for me and for the country, it was made in secret session, where there were no reporters, but he has been urged by many to write it out. I know how irksome such task may be, and fear that he may not comply with the request. But whether he does or not, it will always make me happy to have been defended by him, and has given me a claim to regard him as a father, and his sons as my brothers. He has done more for me than his offspring have ever needed at his hands, for he has delivered me from revilers and persecutors who sought to destroy my good fame and has covered them with confusion.

Accept me, therefore, I beg you, as a brother, whose heart is filled with love and gratitude to your father, and believe me that my heart is dedicated to him and those who are dear to him.

Yours truly,

EDWIN M. STANTON.

General FRANK FESSENDEN.

Referring to this incident, Mr. Fessenden wrote: "Mr. Stanton is in excellent spirits, and the decision of the Senate has done much good. I received more compliments upon my speech than for any other I ever made. People are very anxious I should write it out for a campaign document, and Mr. Stanton claims it, but it is absolutely impossible. I had no memoranda and none were taken. It was not even laid out in my own mind. I simply went on from one thing to another, as the subject grew upon me. Chandler said he forgave me all my sins. Stanton told him to confess his own towards me."

To his son Frank, who sent him a copy of Mr. Stanton's letter, he wrote: "I received yours inclosing a copy of a letter from Mr. Stanton. In his warmth of gratitude he far overestimates the speech made by me on the occasion referred to. The truth was that certain personal attacks were made upon him which excited my indignation and contempt, and I did not hesitate to express both rather plainly. Of course I cannot write it out, for I made absolutely no preparation and could not remember what I said or how I said it."

At the time this speech was delivered, Senator Dawes was a member of the House. Upon the death of Senator Fessenden the following year, Mr. Dawes pronounced one of the obituary addresses in the House, and thus alluded to this speech: Referring to Mr. Fessenden's "power to stir the deepest fountain by his eloquence if a fitting occasion required it," Mr. Dawes said, "The defense of Mr. Stanton, pronounced by Mr. Fessenden at midnight upon the floor of the Senate, will live forever."

Two months later, on the 25th of March, in a discussion upon the standing rules of the Senate with regard to resolutions calling for information from the departments, Senator Garret Davis of Kentucky complained that a

resolution of his own calling for certain information had not been answered. That the infamous secretary at the head of the department, in the absoluteness of his power, had disregarded the call as he had disregarded law and every other obligation. This Carnot of the War Department had not deigned to answer.

Mr. Fessenden said he "would not reply to the senator as to what he had stated about the Secretary of War, calling him the infamous secretary, etc. All he would observe about that was, that if the senator or himself ever arrived at the degree of infamy which the Secretary of War would have in the history of this country, they would stand much better than either was likely to do at present."

This remark was acknowledged by Mr. Stanton in the following note : —

MY DEAR FRIEND, — You are always placing me under obligations for your kindness, of which your vindication of yesterday was the latest occasion. One of the inducements for carrying into speedy effect my fixed resolve forever to abjure public life is that my friends may be relieved of the task of repelling malignant assaults like that of the "Garrulous Davis" yesterday.

With many thanks, I am, as ever, devotedly your friend,

EDWIN M. STANTON.

HON. WM. PITT FESSENDEN.

Unhappily the friendship between these men was soon to be broken. The course of Mr. Fessenden in the impeachment of the President so offended Mr. Stanton that it caused an estrangement. Mr. Stanton's whole soul was absorbed in his struggle with President Johnson, and he looked upon a vote of acquittal as joining the enemy.

Nothing was said by either, but they never met afterwards. The break in their friendship was a sore grief to Mr. Fessenden. After the impeachment trial was over, a resolution of thanks to Mr. Stanton was passed by Congress. Mr. Fessenden was asked to speak upon the resolution, and did so. He said there was no public honor which could be paid to Mr. Stanton that would not be gratifying to him, and of which he did not think Mr. Stanton worthy. He had said before that there was no man in the country who had, in the events of the last seven years, rendered greater services, if as great, to the country, as Mr. Stanton. He had been intimate with him since he had entered the War Office. He had seen not only the remarkable energy, ability, and purity with which he had discharged his duties and rendered great services to his country at a trying period, but he could see and feel his entire disinterestedness. If there was any man, not excepting President Lincoln, who served his country for the love of it, and a desire to save it from impending dangers, it was Mr. Stanton. He had been in a trying position, and had developed a greatness of character in holding a peculiar position which some lookers-on might think he ought to retire from, but he had been impelled by a feeling of duty to his country.

Mr. Stanton held it to be his duty and the duty of the executive government to adopt the policy of Congress with regard to reconstruction and carry it out. He (Fessenden) agreed with him in this. It had brought him into collision with the head of the government, and probably with the rest of the Cabinet, and being in that collision, he felt it his duty to remain in his office. Mr. Stanton believed it to be his duty to sacrifice his own wishes to meet a great and overruling exigency. For that he (Fessenden) honored him. Few men would have had the cour-

age to do it. The fact that Mr. Stanton had remained at his post from the highest considerations of the public welfare, and was willing to risk the great reputation he had acquired by his unsurpassed service in carrying to an end that which he believed to be for his country's good, entitled him to a still larger measure of their approval. It was peculiarly fitting that Congress should express its approbation to a man who had rendered such distinguished services and was retiring from public life. He hoped that senators on the other side would indorse the whole course of this distinguished public officer.

The resolution was adopted by a strict party vote. Mr. Stanton made no sign, and the two gentlemen remained separated. An effort towards a reconciliation was made by mutual friends, but was abandoned. Mr. Fessenden died in September of the next year, and Mr. Stanton followed him in December.

Towards the last of February public affairs seemed so threatening that he feared the approaching presidential election would go against the Republicans, and nothing would be gained from the war. The old order of things would be restored, and ten years more would bring on another revolution. On February 22 he wrote: "I have been quite out of sorts and much depressed. Even the exciting events of yesterday and to-day have not overcome, but rather increased my feelings of prostration. We were in session last night until ten o'clock, and closed by passing a very unwise resolution, upon the strength of which Mr. Johnson will probably be impeached, and that will end us. I did not vote for the resolution, and it was of no use to vote against it. Either I am very stupid or my friends are acting like fools and hurrying us to destruction. I am very tired of public life, and would gladly retire if I could do so with honor. Passion has

banished sense, and it would not surprise me if we are beaten at the coming elections. I tried hard to soften the Senate resolution, expressing the opinion that the act of the President in removing Stanton was illegal, into a mere disapproval, but was unsuccessful. I feared that the House would take precisely the advantage of it to impeach the President. The country has so bad an opinion of him, which he fully deserves, that it expects his condemnation and removal from office. This fact places those who are to try him, if they are conscientious men, in a possibly painful position, especially as a failure to convict may be attended with very disastrous consequences to the dominant party, and consequently to the great cause which depends upon its success. Still, it is a responsibility from which there is no escape, and I humbly trust we may be able to judge him impartially, as we have sworn to do. I still think that whatever may have been his misdemeanors, it would have been better to tolerate him to the end of his term, rather than to expose our party and our country to so great a hazard. Whatever may be the consequences to myself personally, I will not decide the question against my own judgment. Everybody seems to forget that senators have taken an oath to try the man impartially. But whatever I may think and feel as a politician, I cannot and will not violate my oath. I would rather be confined to planting cabbages the remainder of my days."

CHAPTER IX

IMPEACHMENT TRIAL

January - June, 1868

IN 1865 Andrew Johnson, who had been elected Vice-President of the United States by the Northern or Union party, largely Republican, became, upon the death of President Lincoln, the President of the United States. The power in the House of Representatives and the Senate was largely with the Union party, the party which had paid its tribute of money, life, and sorrow to crush the Rebellion, and which had elected Mr. Johnson Vice-President.

No sooner had President Johnson taken office than a difference arose between him and Congress upon the question where lay the right to determine the conditions upon which the States lately in rebellion should be admitted to the United States, and when and how they should come in. President Johnson, like President Lincoln, believed that the power was vested in him by the Constitution, and Congress that it was vested in it. There was also a difference of opinion on the question of the status of the Confederate States. Were they constitutionally and legally in or out of the Union?

President Johnson continued in office President Lincoln's Cabinet, including Edwin M. Stanton, Secretary of War, whose services in that office during the war had made him much loved and esteemed at the Union North. Secretary Stanton agreed with the congressional view, while the rest of President Johnson's Cabinet and his

personal advisers agreed with the President. The difference between President Johnson and Congress became, as time passed, a bitter feud, characterized by hatred, contempt, and vilification. Speeches were made in the Senate and House reviling the President. Bills were passed over his veto, and he, on his part, lost no opportunity in public and private speech to denounce Congress with all the force and bitterness which his great abilities, strong nature, and pride made possible. The Union North, as a populace, thought it saw, in the course of President Johnson, a menace to the preservation of all that the North had won by the war; they thought they saw the Southern States about to be readmitted, with full powers, without punishment, able to take part in the nation's counsels; to rehabilitate the South and pay the war debt, and pay the Southerners for the loss of their slaves, at the expense of the general government; and therefore President Johnson became to be cordially hated and detested by the great party which had elected him.

The Constitution of the United States contained a provision that the President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors, and also a provision empowering the Senate of the United States to try and convict such officers upon charges formulated and presented to the Senate by the House.

The constitutional provisions bearing upon removals from office were Art. II, Sec. I: "The executive power shall be vested in a President." . . . Art. II, Sec. II: "The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." Art. II, Sec. IV: "The President,

Vice-President, and all civil officers . . . shall be removed from office on impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors."

In 1867 the power of removal was limited by an act called the "Tenure of Office Act." It modified the right of removal from office by the President which had hitherto been supposed to exist; and as to cabinet officers, it provided that the members of the Cabinet should hold their offices, unless removed with the consent of the Senate, for the term of the President who appointed them, and for one month longer.

The first talk of impeaching President Johnson began in 1866, after the Republicans had carried the elections of that autumn. Senator Fessenden had opposed the idea then and always, writing home, at the commencement of the session, that "enough had transpired to show that his 'radical' friends meant to make war upon Andy in devious ways," . . . "though the impeachment idea found little favor;" and later he wrote that he "thought very little would be made of the impeachment business, and that it was coming nearer and nearer every day to be a fizzle."

Matters went from bad to worse, however; the feud between the President and Congress became more bitter. The friction between Secretary Stanton and the President became more grave, and the feeling was constantly growing among the people in the North that an attempt ought to be made to remove the President from office by impeachment. This feeling was fanned and fostered by a party of men at Washington, in and out of Congress, and many local Republicans outside of Washington, who worked in concert toward the removal of the President by impeachment.

In August, 1867, President Johnson suspended Secretary Stanton, and within twenty days of the next meeting

of the Senate, in December, 1867, he reported to the Senate the reason for such suspension, and also that he had appointed General Grant Secretary of War *ad interim*. On the 13th of January, 1868, the Senate having refused to concur in said suspension, and having so notified President Johnson, he first strove to induce General Grant to refuse to surrender the office to Mr. Stanton; but failing in this, on the 21st of February, 1868, he made the following order, addressed to Edwin M. Stanton:—

By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication. You will transfer to Brevet Major-General Lorenzo Thomas, adjutant-general of the army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

(Signed) ANDREW JOHNSON.

On the same day the President addressed a letter as follows to General Thomas:—

The Honorable Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office. Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully yours,

ANDREW JOHNSON.

Shortly prior to this the House had considered the matter of impeaching the President for what he had done up to that time, and had voted against it; but his removal, or attempted removal, of Secretary Stanton brought the matter again into life and encouraged the impeachment party, who at once promulgated with considerable success the idea that this was an effort by President Johnson to gain possession of the machinery of the war office and utilize it in furtherance of his schemes relative to the South.

In order to convict the President by the Senate, a two thirds vote was necessary, and if all the Republicans could be induced to vote for impeachment, his conviction would be certain; but seven Republican votes for acquittal would save him. It was known that some of the Republican senators, among them Senator Fessenden, did not think the President's conduct was sufficient ground for his impeachment for high crimes and misdemeanors; but immediately upon the happening of the Stanton incident a resolution was offered in the Senate by Senator Wilson of Massachusetts, to the effect that under the Constitution and laws of the United States the President had no power to remove the Secretary of War and to designate any other person to perform the duties of that office *ad interim*. Senator Fessenden opposed this resolution, and endeavored to have it softened into a mere expression of disapproval, but unsuccessfully. The Senate was much excited, and after a short debate the resolution was adopted by vote of two thirds of the senators. This vote made a sufficient number to convict the President, and no time was lost by the impeachers in taking advantage of their opportunity. On the day the resolution passed the Senate, a resolution was offered in the House that the President be impeached for high crimes and misdemean-

ors. It was referred to the House committee on reconstruction and reported back the next day, with a recommendation that it be passed. An excited debate took place on Saturday and was adjourned until Monday, when it was brought to a vote, and not one Republican member acted or voted against the resolution; all who spoke advocating impeachment. And it may here be stated that it was the unanimous view of the Republican North that for three years President Johnson had resisted all the measures of the party which elected him. That party to a man considered that he had betrayed his trust and deserted his party. He had opposed laws passed by Congress which provided for colored citizenship, secured the public debt, the public pensions, and outlawed the Confederate debt. He had sought to restore the States lately in rebellion to representation in Congress without safeguards for the future, and without the abolition of slavery, and to put the political power of those States into the possession of the rebel (so-called at the North at that time) element without restraint and without conditions. He had resisted giving protection to the freedmen, and vetoed laws passed to that end; he had opposed every scheme that equalized representation in Congress as between North and South, and while he was unwilling to confer suffrage upon the negroes, he contended that they should be counted in the basis of apportionment, thus increasing in political power all those recently in rebellion. The North believed that he had been treacherous in connection with the political massacres of Northern men in the city of New Orleans. He had vetoed the Freedmen's Bureau Bill and the Civil Rights Bill, which conferred power upon the colored citizen to enable him to protect himself, and had so encouraged and sustained the rebel element in the disloyal States that they had now insolently defied Con-

gress, contemptuously rejected its terms for restoration, and instituted a series of outrages and persecutions upon the white Unionists and freedmen, to suppress their political power. In addition it may be stated that the President had recently made a speaking tour, appearing and speaking in public in a state of apparent inebriety, and he had removed Republican federal office-holders by the wholesale.

Such was the indictment of President Johnson in the heart of the North, and the North demanded the removal of the President.

Following the vote in the House to impeach the President came the preliminary proceedings. The House prepared, through its committee, the charges to be sent to the Senate. They may be abstracted as follows:—

Art. 1. That the President issued the order of removal with intent to violate the Tenure of Office Act, and to remove Mr. Stanton.

Art. 2. That he issued the letter of authority to Thomas with intent to violate the Constitution and the Tenure of Office Act.

Art. 3. That he appointed Thomas Secretary of War *ad interim*.

Art. 4. That he conspired with Thomas and others unknown unlawfully to hinder and prevent Mr. Stanton from exercising the office of Secretary of War.

Art. 5. That he conspired with Thomas and others to prevent and hinder the execution of the Tenure of Office Act, and in pursuance of said conspiracy did attempt to prevent Mr. Stanton from holding his office.

Art. 6. That he conspired with Thomas and others to seize by force the property of the United States in the War Department contrary to the Conspiracy Act of 1861 and the Tenure of Office Act.

Art. 7. That he conspired with Thomas with intent to

seize and take such property contrary to the Tenure of Office Act.

Art. 8. That, with intent to control the disbursements for the War Department, and contrary to the Tenure of Office Act, and in violation of the Constitution, he issued the letter appointing Thomas.

Art. 9. That he instructed General Emory that the clause in the Appropriation Act of 1867, requiring that all orders should pass through the general of the army, was unconstitutional and in contravention of Emory's commission, with the intent to induce Emory to accept orders directly from him, and with the intent to violate the Tenure of Office Act.

Art. 10. That, with the intent to bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States, and the several branches thereof, and to impair and destroy the respect of the people for them, he made the speeches at the Executive Mansion, at Cleveland, and at St. Louis, contemning and vilifying Congress.

Art. 11. That he attempted to prevent the execution of the Tenure of Office Act by unlawfully devising means to prevent Mr. Stanton from resuming the functions of his office, and to prevent the execution of the said clause in the Appropriation Act of 1867 and the Reconstruction Act of March 2, 1867.

These charges were presented to the Senate; the answer of the President was presented to the Senate, and on the 30th of March, 1868, the trial was actually commenced. The Senate had been organized with Chief Justice Salmon P. Chase of the Supreme Court as its presiding officer. Each senator was solemnly sworn as follows: "To do impartial justice upon the trial according to the Constitution and the laws."

Senator Fessenden had now been fourteen years continuously senator of the United States from the State of Maine, with the exception of eight months during which he had been the Secretary of the Treasury. He had been during the time of Republican control the acknowledged leader of the Republican party upon the floor of the Senate. He had received from the Senate its highest honors, continuously the chairman of its most important committees and the champion upon the floor of the Senate for the bills which came from those committees. He had, in the prime of life, in 1854, surrendered a very eminent position at the bar of his native State and the joys of continuous home and family life to enter the Senate and oppose slavery. He had put his hand to the plow and kept it there through fourteen years of the nation's greatest need, through fourteen years of time fraught with more good or ill to the country than any period of American history excepting the Revolution. The terrific labor and responsibility which he had discharged had permanently impaired his health, and made him the victim of a wasting and incurable illness. He had given up his opportunity of a federal judgeship, for there had been no time from his entrance to the Senate until the present time when he could perform his duty to his country and deprive the country of the benefits of his acquired knowledge, experience, and familiarity with its affairs and needs. His senatorial term was to continue until 1871; and at sixty-two years of age, with his practice abandoned, his health gone, the party which he loved and helped to form, and which ruled the country he had done so much to serve, demanded, with almost unanimous voice, that he accede to its wishes, and vote for the conviction of the President, under penalty of ostracism, obloquy, and political death.

The pressure brought to bear upon Senator Fessenden was terrific. The Republican press was for conviction, and day after day, in its editorials, demanded conviction, named certain senators who were considered doubtful among the Republicans, and threatened them with infamy in case they did not support the movement. Mass meetings were held all over the North, resolutions to the same effect were passed, and hundreds of Senator Fessenden's friends, men who had helped him in the past to his eminence, and could be invaluable to him in the future, and some of his relatives, wrote him that there was no question about his duty to convict; and all of these editorials and the resolutions of the mass meetings were forwarded to him by those who desired conviction and were willing to impress their views and wishes upon the man who was to be a judge.

The managers or counsel to present the evidence against the President and to argue for conviction were noted men and able lawyers, — Benjamin F. Butler, Thaddeus Stevens, Messrs. Bingham, Williams, Wilson, Boutwell, and Logan. The President's counsel were Benjamin R. Curtis, William M. Evarts, Mr. Groesbeck, ex-Attorney-General Stanbery, and Thomas A. Nelson of Tennessee. It was a part of the procedure that the senators should vote upon all questions of admission or rejection of evidence, and through the trial all disputed questions of that kind and other interlocutory matters were so referred to the Senate and decided by a majority vote.

President Johnson filed his answer to the charges. He admitted the acts charged with reference to his attempt to remove Stanton and substitute Thomas. He claimed that he did that lawfully; that the right was in him to do so; that he did it without any intent to violate any law and for the good of the public service, claiming that at the

time there was a vacancy existing in the office of Secretary of War ; that it was lawful and according to long and well-established usage for him to authorize Thomas to act as secretary *ad interim*. That if the Tenure of Office Act was valid, he had not violated it, and that the Tenure Act was contrary to the Constitution of the United States. He denied the charges of conspiracy in connection with that matter, and to Article 9, the Emory charge, he claimed that he did not do more than express to Emory the opinion which he had previously expressed to the House of Representatives.

Concerning the tenth article, which was the one which charged him with improper speeches and accusations against Congress, he claimed that he had not been truthfully quoted in the charges, and that what he had said was said upon occasions which made them appropriate, and that what he did say was not cognizable by the Senate as a high misdemeanor in office, within the meaning and intent of the Constitution of the United States.

To Article 11 he denied that on the 18th of August, 1866, he declared, by public speech or otherwise, that the Thirty-ninth Congress of the United States was not a Congress of the United States, authorized by the Constitution to exercise legislative power under the same, or that he declared that the said Thirty-ninth Congress was a Congress of only part of the States in any sense or meaning other than that ten States of the Union were denied representation therein ; or that he made any or either of the declarations in the article alleged as denying or intending to deny that the legislation of said Congress was valid or obligatory upon him, except so far as he saw fit to approve the same ; he claiming that the speeches then and on other occasions alluded to in the charges did not make him subject to question, inquisition, or impeachment, in any form

or manner of or concerning such rights of freedom of opinion or speech, or his said alleged exercise thereof. He denied the allegation of the eleventh article that he did, unlawfully and in disregard of the requirements of the Constitution that he should take care that the laws should be faithfully executed, attempt to prevent the execution of the Tenure of Office Act by unlawfully devising, contriving, or attempting means by which he should prevent Edwin M. Stanton from assuming the functions of Secretary of War. He denied unlawfully devising means to prevent the execution of an act entitled "An act making appropriations for the support of the army for the fiscal year ending June 30, 1868," and generally denied being guilty of a high misdemeanor in office, making the distinction that the charges did not allege commission of acts by him in his office of President.

On the 30th of March General Butler made the opening speech to the Senate on behalf of the House, in the course of which he defined an impeachable high crime or misdemeanor as follows:—

"One in its nature or consequences subvertive of some fundamental or essential principle of government or prejudicial to the public interest, and this may consist of the violation of the Constitution, of law, of an official oath or of duty, by an act or omission, or, without violating a positive law, by the abuse of a discretionary power from improper motives or for any improper purpose."

He said: "Therefore, by these articles and the answers thereto, the momentous question here now is raised, whether the presidential office (if it has the prerogatives and powers claimed for it) ought, in fact, to exist as a part of the constitutional government of a free people; while, by the last three articles, the simpler and less im-

portant inquiry is to be determined whether Andrew Johnson has so conducted himself that he ought longer to hold any constitutional office whatever. The latter sinks into merited insignificance compared to the grandeur of the former. If that is sustained, then a right and power hitherto unclaimed and unknown to the people of the country is ingrafted on the Constitution most alarming in its extent, most corrupt in its influence, most dangerous in its tendencies, and most tyrannical in its exercise. Whoever, therefore, votes 'not guilty' on these articles, votes to enchain our free institutions and to prostrate them at the feet of any man who, being President, may choose to control them."

Farther on, concerning the speeches of the President, he states the issues to be, first, that he had the right to say what he did of Congress, in the exercise of freedom of speech, and, second, that what he did say in those speeches was a highly gentleman-like and proper performance in a citizen, and still more becoming in a President of the United States.

The taking of testimony was begun after the conclusion of General Butler's argument, and the managers proved that on August 12, 1867, President Johnson attempted to suspend Mr. Stanton from the exercise of his office and designated General Grant to act *ad interim*, and that he communicated the matter to the Senate, and that the Senate did not concur, and so notified President Johnson. The subsequent Stanton-Thomas incident and the President's part therein was proven. It was also proven that on January 27, 1867, President Johnson received the following telegram : —

"Montgomery, Alabama, January 17, 1867. Legislature in session ; effort making to reconsider vote on constitutional amendment. Report from Washington says it is

probable an enabling act will pass ; we do not know what to believe. I find nothing here. Lewis E. Parson, Exchange Hotel." (Addressed to His Excellency, Andrew Johnson, President.)

The President's reply was by telegraph : —

"January 17, 1867. What possible good can be obtained by reconsidering the constitutional amendment? I know of none in the present posture of affairs, and I do not believe the people of the whole country will sustain any set of individuals in attempts to change the whole character of our government by 'enabling acts' or otherwise. I believe, on the contrary, that they will eventually uphold all who have patriotism and courage to stand by the Constitution and who place their confidence in the people. There should be no faltering on the part of those who are honest in their determination to sustain the several coördinate departments of the government in accordance with its original design."

It was then proved that on the 18th of August, 1866, when a committee waited upon the President at the White House, he answered the address of the spokesman of that committee, and in his reply said, after alluding to the ordeal of the war, that the country did not find itself free of difficulties and dangers ; that every effort had been made, so far as the Executive was concerned, to restore peace ; that he thought he had personally succeeded, but as the work progressed, he found a disturbing and alarming element of opposition thrown in.

"We have witnessed in one department of the government every effort, as it were, to prevent the restoration of peace, harmony, and union. We have seen, as it were, hanging upon the verge of the government, as it were, a body calling itself, or assuming to be, a Congress of the United States, when it was but a Congress of a part of

the States. We have seen Congress assuming to be for the Union, when every step they took was to perpetrate dissolution and make disruption permanent. We have seen every step that has been taken, instead of bringing about reconciliation and harmony, has been legislation that took the character of penalties, retaliation, and revenge. This has been the course, this has been the policy of one department of your government. The humble individual who has been addressed here to-day and now stands here before you has been occupying another department of the government. The manner of his going there I do not allude to now; suffice it to say that I was there by the Constitution of my country; and being there by the Constitution of my country, I placed my foot upon the Constitution as a great rampart of civil and religious liberty, having been taught early in life, and having practiced through my whole career, to venerate and respect and make the Constitution of my fathers my guide through public life.

“But tyranny and despotism! We all know that tyranny and despotism, even in the language of Thomas Jefferson, can be exercised, and exercised more effectually, by many than one. We have seen Congress organized, we have seen Congress in its advance, step by step, has gradually been encroaching upon constitutional rights and violating the fundamental principle of the government, day by day and month after month. We have seen a Congress that seemed to forget that there was a Constitution of the United States; that there was limits, that there was boundaries to the sphere or scope of legislation. We have seen Congress in a minority assume to exercise, and have exercised powers, if carried out and consummated will result in despotism or monarchy itself. My pride and power is, if I have any, to occupy that position which

retains the power in the hands of the people. It is upon them that I have always relied, and it is upon them that I now rely ; and I repeat, neither the taunts nor jeers of Congress, nor of a subsidized and calumniating press, can drive me from my purpose."

The speech made by the President on the 4th of September, 1866, at Cleveland, was proved. The parts of it claimed by the managers to support the charges were as follows : —

"I come before you as an American citizen simply, and not as the chief magistrate. . . . Where is a man or woman who can place his finger upon one single act of mine deviating from any pledge of mine, or in any violation of the Constitution ? Who is he, what language does he speak, what religion does he practice, that can come and place his finger upon one pledge I ever violated, or on one principle I have proved false to ?"

Interruptions were frequent in this speech, and I will quote from the report of the speech, which was placed in evidence, including interruptions : —

"(Voice, 'New Orleans.') (Another, 'Why don't you hang Jeff Davis?') Hang Jeff Davis? (Shouts and laughing cries of 'Down with him!') Why don't *you* hang him? (Cries of 'Give us an opportunity !') Have n't you got the court? Have n't you got the attorney-general? Who is your chief justice, who has refused to sit on his trial? (Groans and cheers.) I am not the chief justice—I am not the attorney-general. I am no jury ; but I will tell you what I did do ; I called upon your Congress that is trying to break up the government. (Hisses, and a cry of 'A lie !') (Great confusion, voice, 'Don't get mad.') I am not mad. (Hisses.) I will tell you who is mad. 'Whom the gods want to destroy they first make mad.' Did your Congress order any of them to be

tried? (Three cheers for Congress.) Then, fellow citizens, we might as well allay our passion and permit reason to resume her empire and prevail. In presenting the few remarks that I design to make, my intention was to address myself to your common sense, your judgment, your better feelings, not to the passion and malignancy of your hearts. (Voice, 'How about Moses?') This was my object in presenting myself on this occasion, and to say 'How d' ye' and 'Good-by.' In the assembly here to-night the remark has been made 'traitor.' Traitor, my countrymen? Will you hear me, and will you hear me for my cause and for the Constitution of my country? ('Yes, yes, go on.')

"I want to know when or where, or under what circumstances Andrew Johnson, not as Executive, but in any capacity, ever deserted any principle or violated the Constitution of this country. ('Never, never.') Let me ask this large and intelligent audience if your Secretary of State, who served four years under Lincoln, and who was placed upon the butcher's block, as it were, and hacked and gashed all to pieces, scarred by the assassin's knife, when he turned traitor? (Cries of 'Never.') If I were disposed to play the orator, and deal in declamation, even to-night I would imitate one of the ancient tragedies, and would take Mr. Seward, bring him before you, and point you to the hacks and scars upon his person. (Voice, 'God bless him!') I would exhibit the bloody garments, saturated with gore, from his gaping wounds. Then I would ask you, who is the traitor? (Voice, 'Thad. Stevens.') Why don't you hang Thad. Stevens and Wendell Phillips? (Cheers.) I have been fighting traitors in the South. They have been whipped and crushed. They acknowledge their defeat and accept the terms of the Constitution. And now, as I go round the circle, having fought traitors

at the South, I am prepared to fight them at the North (Cheers), God being willing, with your help. (Cries, 'We won't give it.') They will be crushed North and this glorious Union of ours will be preserved. (Cheers.) I do not come here as the chief magistrate of twenty-five States out of thirty-six. (Cheers.)

"I come here to-night with the flag of my country and the constellation of thirty-six stars untarnished. Are you for dividing this country? (Cries, 'No.') Then I am President, and President of the whole United States. (Cheers.) I will tell you another thing. I understand the discordant notes in this crowd to-night. He who is opposed to the restoration of the government, and the union of the States is a greater traitor than Jeff Davis, or Wendell Phillips. (Loud cheers.) I am against both of them. (Cries, 'Give it to them.') Some of you talk about traitors in the South, who have not courage to go away from your homes to fight them. (Laughter and cheers.) The courageous men, Grant, Sherman, Farragut, and the long list of distinguished sons of the Union, were in the field, and led on their gallant hosts to conquest and to victory, while you remained cowardly at home. (Applause, 'Bully.') Now, when these brave men have returned home, many of whom have left an arm or a leg, or their blood, upon many a battlefield, they found you at home speculating and committing fraud upon the government. (Laughter and cheers.) You pretend now to have great respect and sympathy for the poor, brave fellow who has left an arm on the battlefield. (Cries, 'Is this dignified?') I understand you — you may talk about the dignity of the President. (Cries, 'How was it about his making a speech on the 22d of February?') I have been with you on the battlefields of this country, and I can tell you furthermore, to-night, who have to pay these

brave men who shed their blood. You speculated, and now the great mass of the people have got to work it out. (Cheers.)

"It is time that the great mass of the American people should understand what your designs are. (A voice, 'What did General Butler say?') What did General Butler say? (Hisses.) What did Grant say? (Cheers.) And what did General Grant say about General Butler? (Laughter and cheers.) What does General Sherman say? (A voice, 'What does Sheridan say? New Orleans, New Orleans.') General Sheridan says that he is for the restoration of the government that General Sheridan fought for. ('Bully.') But, fellow citizens, let this all pass. I do not care for my dignity. There is a certain portion of our countrymen will respect a citizen wherever he is entitled to respect. (A voice 'That's so.') There is another class that have no respect for themselves, and consequently cannot respect any one else. (Laughter and cheers.) I know a man and a gentleman whenever I meet him. I have only to look in his face, and if I was to see yours by the light of day I do not doubt but that I should see cowardice and treachery written upon it. (Laughter and cheers.) Come out here where I can see you. (Cheers.) If you ever shoot a man you will do it in the dark, and pull the trigger when no one is by to see. (Cheers.) I understand traitors. I have been fighting them at the southern end of the line, and we are now finding them in the other direction. (Laughter and cheers.) I came here neither to criminate nor recriminate; but when attacked, my plan is to defend myself. (Cheers.)

"I tell you, my countrymen, that though the powers of hell and Thad. Stevens and his gang were by, they could not turn me from my purpose. There is no power that

could turn me, except you and the God who spoke me into existence."

In conclusion he said that Congress had taken much pains to poison their constituents against him. But what had Congress done? Have they done anything to restore the union of these States? No; on the contrary, they had done everything to prevent it; and, because he stood now where he did, when the Rebellion commenced, he had been denounced as a traitor. Who had run greater risks, or made greater sacrifices than himself? But Congress, factious and domineering, had taken to poisoning the minds of the American people. It was with them a question of power. "Every friend of theirs who holds an office as assessor, collector, or postmaster (Voice, 'Turn Benedict out') wanted to retain his place. Rotation in office used to be thought a good doctrine by Washington, Jefferson, and Adams; and Andrew Jackson, God bless him, thought so. (Applause.) This gang of office-holders—these bloodsuckers and cormorants—had got fat on the country. You have got them in your district."

Another speech made by the President was proven, — the speech made September 8, 1866, from a balcony of the Southern Hotel in St. Louis, after he had been welcomed by the mayor in the afternoon. In this speech he said, among other things (reading from the report of the speech which was placed in evidence at the trial):—

"If you will take up the riot at New Orleans, and trace it back to the radical Congress (great cheering, and cries of 'Bully'), you will find that the riot at New Orleans was substantially planned; if you will take up the proceedings in their caucuses, you will understand that they there knew (cheers) that a convention was to be called which was extinct, by its powers having expired; that it was said, and the intention was, that a new government

was to be organized, and in the organization of that government the intention was to enfranchise one portion of the population called the colored population, who had just been emancipated, and at the same time disfranchise white men. (Great cheering.) When you begin to talk about New Orleans (confusion), you ought to understand what you are talking about. . . . So much for the New Orleans riot. And there was the cause of the origin of the blood that was shed, and every drop of blood that was shed is upon your skirts, and they are responsible for it. (Cheers.) I could trace this thing a little closer, but I will not do it here to-night. But when you talk about New Orleans, and talk about the causes and consequences that resulted from proceedings of that kind, perhaps, as I have been traduced here, and you have provoked questions of this kind, though it don't provoke me, I will tell you a few wholesome things that *has* been done by this radical Congress. (Cheers.)

"In connection with New Orleans and the extension of the elective franchise, I know that I have been traduced and abused. I know it has come in advance of me here, as it has elsewhere, and that I have attempted to exercise an arbitrary power in resisting laws that *was* intended to be enforced on the government. (Cheers and cries of 'Hear.')

"Yes, that I had exercised the veto power ('Bully for you'); that I had abandoned the power that elected me, and that I was a t-r-ai-tor (cheers) because I exercised the veto power in attempting to, and did, arrest for a time a bill that was called a Freedmen's Bureau Bill. (Cheers.) Yes, that I was a t-r-ai-tor! And I have been traduced, I have been slandered, I have been maligned, I have been called Judas — Judas Iscariot, — and all that. Now my countrymen, here, to-night, it is very easy to indulge in

epithets, it is very easy to call a man a Judas, and cry t-r-ai-tor, but when he is called upon to give arguments and facts, he is very often found wanting.

“*Judas, Judas Iscariot, Judas!* There was a Judas once, one of the twelve apostles. Oh, yes; and these twelve apostles had a Christ. (A voice, ‘And a Moses, too.’ Great laughter.) The twelve apostles had a Christ, and he could not have had a Judas unless he had had twelve apostles. If I have played the Judas, who has been my Christ that I have played the Judas with? Was it Thad. Stevens? Was it Wendell Phillips? Was it Charles Sumner? (Hisses and cheers.) Are these the men that set up and compare themselves with the Saviour of men, and everybody that differs with them in opinion and try to stay and arrest their diabolical and nefarious policy, is to be denounced as a Judas? (‘Hurrah for Andy,’ and cheers.)

“In the days when there were twelve apostles, and when there were a Christ, while there were Judases there were unbelievers, too. Y-a-s; while there were Judases there were unbelievers. (Voices, ‘Hear!’ ‘Three groans for Fletcher.’) Yes, oh, yes! unbelievers in Christ; men who persecuted and slandered and brought him before Pontius Pilate, and preferred charges and condemned and put him to death on the cross to satisfy unbelievers. And this same persecuting, diabolical, and nefarious class to-day would persecute and shed the blood of innocent men to carry out their purposes. (Cheers.) But let me tell you — let me give you a few words here to-night — and but a short time since I heard some one say in the crowd that we had a Moses. (Laughter and cheers.) Yes, there was a Moses. And I know sometimes it has been said that I have said that I would be the Moses of the colored man. (‘Never!’ and cheers.) Why, I have

labored as much in the cause of emancipation as any other mortal man living. But while I have strived to emancipate the colored man, I have felt, and now feel, that we have a great many white men who want emancipation. (Laughter and cheers.) There is a set amongst you that have got shackles on their limbs, and are as much under the heel and control of their masters as the colored man that was emancipated. (Cheers.) . . .

“As we talk about this Congress let me call the soldiers’ attention to this immaculate Congress — let me call your attention. Oh! this Congress, that could make war upon the Executive because he stands upon the Constitution and vindicates the rights of the people, exercising the veto power in their behalf — because he dared to do this, they can clamor and talk about impeachment. And by way of elevating themselves and increasing confidence with the soldiers throughout the country, they talk about impeachment. . . .

“The brave boys, the patriotic young man who followed his gallant officers, slept in the tented fields, and periled his life, and shed his blood, and left his limbs behind him, and came home mangled and maimed, can get fifty dollars bounty, if he has served two years. But the members of Congress, who never smelt gunpowder, can get four thousand dollars extra pay. (Loud cheering.) . . .

“How, then, does the matter stand? It used to be one of the arguments that if the States withdrew their representatives and senators, that that was secession — a peaceable breaking up of the government. Now, the radical power in this government turn around and assume that the States are out of the Union; that they are not entitled to representation in Congress. (Cheers.) That is to say, they are dissolutionists, and their position now is to perpetuate a disruption of the government, and that, too,

while they are denying the States the right of representation, they impose taxation upon them, a principle upon which, in the Revolution, you resisted the power of Great Britain. We deny the right of taxation without representation. That is one of our great principles. Let the government be restored. I have labored for it. Now, I deny this doctrine of secession, come from what quarter it may, whether from the North or from the South. I am opposed to it. I am for the union of the States. (Voices, 'That's right,' and cheers.) I am for thirty-six States, remaining where they are, under the Constitution, as your fathers made it, and handed it down to you; and if it is altered or amended, let it be done in the mode and manner pointed out by that instrument itself, and in no other. (Cheers.) . . .

"Large numbers have applied for pardon, and I have granted them pardon. Yet there are some who condemn and hold me responsible for so doing wrong. Yes, there are some who stayed at home, who did not go into the field on the other side, that can talk about others being traitors, and being treacherous. There are some who can talk about blood, and vengeance, and crime, and everything to 'make treason odious,' and all that, who never smelt gunpowder on either side. (Cheers.) Yes, they can condemn others and recommend hanging in torture, and all that. If I have erred, I have erred on the side of mercy. Some of these croakers have dared to assume that they are better than was the Saviour of men himself — a kind of over-righteousness — better than anybody else, and always wanting to do Deity's work, thinking he cannot do it as well as they can. (Laughter and cheers.) Yes, the Saviour of man came on the earth and found the human race condemned and sentenced under the law. But when they repented and believed, he said, 'Let them

live. Instead of executing and putting the world to death, he went upon the cross, and there was painfully nailed by these unbelievers that I have spoken of here to-night, and there shed his blood that you and I might live. (Cheers.) Think of it! To execute and hang and put to death eight millions of people. (Voices, 'Never.') It is an absurdity, and such a thing is impracticable even if it were right. But it is the violation of all law, human and Divine. (Voice, 'Hang Jeff Davis.') You call on Judge Chase to hang Jeff Davis, will you? (Great cheering.) I am not the court, I am not the jury, nor the judge. (Voice, 'Nor the Moses.') Before the case comes to me, and all other cases, it will have to come on application as a case of pardon. That is the only way the case can get to me. Why don't Judge Chase — Judge Chase, the Chief Justice of the United States, in whose district he is — why don't he try him? (Loud cheers.) But perhaps I could answer the question, as sometimes persons want to be facetious and indulge in repartee. I might ask you a question: Why don't you hang Thad. Stevens and Wendell Phillips? (Great cheering.) A traitor at one end of the line is as bad as a traitor at the other. . . .

"These people who have been enjoying these offices seem to have lost sight of this doctrine. I believe that when one set of men have enjoyed the emoluments of office long enough, they should let another portion of the people have a chance. (Cheers.) How are these men to get out (Voice, 'Kick him out.' Cheers and laughter), unless your Executive can put them out, unless you can reach them through the President? Congress says he shall not turn them out, and they are trying to pass laws to prevent it being done. Well, let me say to you, if you will stand by me in this action (cheers), if you will stand by me and try and give the people a fair chance, soldiers

and citizens, to participate in those offices, God being willing, I *will* 'kick them out' just as fast as I can. (Great cheering.) Let me say to you in concluding what I have said,—and I intended to say but little, but was provoked into this rather than otherwise,—I care not for the menaces, the taunts and jeers; I care not for the threats; I do not intend to be bullied by my enemies nor overawed by my friends (cheers); but God willing, with your help, I will veto their measures whenever they come to me. (Cheers.) I will place myself upon the ramparts of the Constitution, and when I see the enemy approaching, so long as I have eyes to see, or ears to hear, or a tongue to sound the alarm, so help me God, I will do it, and call upon the people to be my judges. (Cheers.) I tell you here to-night that the Constitution of the country is being encroached upon. I tell you here to-night that the citadel of liberty is being endangered. (A voice, 'Go it, Andy.') . . .

"I now, then, in conclusion, my countrymen, hand over to you the flag of your country with thirty-six stars upon it. I hand over to you your Constitution with the charge and responsibility of preserving it intact. I hand over to you to-night the union of these States, the great magic circle which embraces them all. I hand them all over to you, the people, in whom I have always trusted in all great emergencies—questions which are of such vital interest. I hand them over to you as men who can rise above party, who can stand around the altar of a common country with their faces upturned to Heaven, swearing by Him that lives forever and ever, that the altar and all shall sink in the dust, but that the Constitution and the Union shall be preserved."

A Mr. Wood was examined as a witness, who testified that he had, in September, 1866, called upon the Presi-

dent, presenting him testimonials for employment in the government service, and that President Johnson said to him his claim was good, or words to that effect, and inquired about his political sentiments; and upon being told by Mr. Wood that he was a Union man, and in favor of the administration, and that he had confidence in Congress and in the Chief Executive, the President asked him if he knew of any difference between himself, the President, and Congress. Wood said he did, that he knew of some differences on minor points, and the President said, "They are not minor points."

With this the prosecution closed its case, and Mr. Curtis opened the defense on the 9th day of April, in an address which was considered to change considerably the appearance of the proceeding. He argued that the Tenure of Office Bill did not cover, and was not intended to cover, Mr. Stanton's appointment as Secretary of War; that Mr. Stanton was appointed by Mr. Lincoln during his first term, and that Mr. Johnson had a lawful right to remove him. The weakness of the case against the President began to be realized through the North, and an acquittal appeared to be within the range of possibilities, and as those possibilities began to appear, the clamor for conviction increased. The pressure upon the senators was renewed in all possible ways. Senator Fessenden had not been impressed, as his letters prior to the trial, and during the trial up to the point last reached, indicate.

He wrote, January 12, 1867: "I do not know how we are coming out here, but we are doing all we can to destroy the confidence of the people in our discretion, and even in our integrity. I think the impeachment business will give us little further trouble. The sentiment of the country is against it, and the principal difficulty now is how to get rid of it decently."

December 1, 1867 : "Things are looking a little better here, and I am beginning to think that impeachment has gone up."

December 15, 1867 : "It hardly seems a month since I left home, and I should hardly have found it out, but for the necessity of having my hair cut. We have done much in the time by getting rid of the impeachment folly, and having the road open for travel. The impeachment gentlemen in and out of Congress are in a great rage. It extinguished the aspirations of the Radical-Radicals. Mr. Wade's visions of being President *pro tem.* have faded. For once, Mr. Sumner cannot boast of the fulfillment of his prophecy, and his bitterness beats 'wormwood and gall.' It is of no use, however. They are in a minority of their own party and must stay there."

And again, on February 29, 1868 : "The New York expedition will have to be given up, I fear, as the impeachment will be upon us in a few days, and its termination cannot be foreseen. If I have strength enough and a good opportunity arises, I may have to make a speech by and by upon matters and things in general, but about that I have no anxiety. You will be amused to learn that my friend is quite exalted by the present state of affairs. The impeachment has restored all his old arrogance, whereas, up to that time he had been quite modest, for him. We seem to think he is expecting to be Secretary of State, under Wade. It would not surprise me, though how he can take the place, unless with the idea of being continued under the new administration, I cannot imagine, as it would seem to involve the giving up of his senatorship and renouncing his chances."

February 8 he writes : "My spirits are very much depressed by the bad state of public affairs ; my own position, both in the Senate and before the country, is

such as I am well-nigh satisfied with, but this affords me no consolation so long as dangers ahead are so threatening and imminent; many who once thought me too timid, if nothing worse, now recognize the wisdom of my counsels and regret that they were not followed; but it is now useless to look back."

March 21, 1868, to his cousin: "In a few days we shall be in the midst of the impeachment trial, so that I see no chance of being able to visit New York. My belief is that the trial will last through April, at least, and the effect will be, I fear, to protract the session. The trial will be very dull and stupid work and the country will probably be tired and disgusted with it. The result will, in my judgment, be politically disastrous, whatever else may come of it."

March 29, 1868, to his son: "We have a tedious job before us in the impeachment, and I regard it with very serious apprehension. I would give much to avoid the responsibility, for it may be that I shall feel compelled to disappoint all the expectations and wishes of our friends. Whatever may be the consequences to myself personally, I will not decide the question against my own judgment. However, we must wait and see. I have carefully kept my mind as free as possible, and shall try to do right."

March 31, 1868, to his cousin: "I find it hard work to behave decently. First, I have somehow taken another severe cold; next, this impeachment matter interferes with everything. Everybody, too, seems to forget that senators have taken their oath to try the man impartially; and if any one avows his determination to keep to his oath, villains and fools set him down as a friend of the President. If he was impeached for general cussedness, there would be no difficulty in the case. That, however, is not the question to be tried. I detest Copperheads and Demo-

crats, particularly New York Democrats. They are just a little meaner than the men who call themselves radicals; but whatever I may think and feel as a politician, I cannot and will not violate my oath. I would rather be confined to planting cabbages for the remainder of my days."

April 5, 1868, to his son: "We adjourned the court to Thursday next. I expressed no opinion to Judge Davis, except generally, that Andy was a fool."

April 12, 1868, to his cousin: "The impeachment drags itself along slowly; every day adds to my previous conviction that the whole thing is most unwise and can result only in disaster. The counsel of bad men and unwise men have led us to the brink of a precipice, and, I fear, nothing can save us from going over. The probabilities are now that the President will be convicted. I have not yet conclusively determined how I shall vote, but I am determined to keep my oath, if my wishes and prejudices will permit me to do so, and to take all the consequences, whatever they may be. Cowardice has led us to follow bad counsels because the majority so determined; as far as I can go, I prefer tar and feathers to lifelong regret. I hope, however, to see my way clear to a right conclusion."

April 19, 1868, to his cousin: "This trial has almost killed me, and will probably quite do so by the time it is finished."

Upon the conclusion of Mr. Curtis's address, which was telegraphed all over the country, telegrams were sent from Washington to the States of the doubtful senators; more mass meetings were organized, and resolutions instructing the senators to vote for conviction passed and forwarded to the senators. The Republican press threatened them with political destruction and everlasting infamy if they

voted for acquittal. Senator Fessenden received many letters threatening his life. One was as follows : —

SENATOR FESSENDEN, — Any Republican senator who votes against impeachment need never expect to get home alive ; so take notice from
A RADICAL.

In the State of Maine almost everybody assumed the President's conviction as certain, and took it for granted that Senator Fessenden would vote for it. General Neal Dow, the father of prohibition in the State of Maine, a man who had been one of Senator Fessenden's warmest supporters and most useful allies in politics, wrote him as follows : —

PORTLAND, MAINE, April 6, 1868.

DEAR MR. FESSENDEN, — In writing to thank you for your kind attention in sending me a valuable Pub. Doc., I did not say so much as I felt, *as we all feel*, about our great hope of deliverance from the bad man whose presence in the White House has been a shame to our country and an infinite mischief to our affairs. Speedy deliverance from his misrule will bring joy to every loyal heart and inspire the world with renewed confidence in the stability of our institutions.

That the sentence may come quickly is our earnest hope ; and there is among us no hesitation or doubt that it should include the constitutional "disability." To omit that would be to repeat the weakness of Winslow in permitting the escape of Semmes when the Alabama went down. Hang Johnson up by the heels like a dead crow in a cornfield, to frighten all his tribe.

Truly yours,

NEAL DOW.

In saying this I am sure I express the unanimous opinion and feeling of every loyal heart and head in this State.

General Dow received an answer from Senator Fessenden as follows :—

WASHINGTON, April 11, 1868.

MY DEAR SIR,—I was not a little surprised at the character and contents of your letter of the 6th instant. Several persons unknown to me have undertaken to give me their opinions as to the guilt or innocence of the President, and to advise me as to my duties. I did not expect that a gentleman of your intelligence could commit so grave an error.

You cannot but be aware that in the trial of this impeachment I am acting *as a judge*, under oath to administer “impartial justice according to the Constitution and the laws.” Does this oath mean anything? Is it binding upon me as a man of conscience, or even as a man of honor? If so, by what right can any man upon whom no responsibility rests, and who does not even hear the evidence undertake to advise me as to what the judgment, and even the sentence, should be?

Suppose, my dear sir, that you were on trial for an offense against the laws, — what, in such a case, would you think of me, if, without even waiting to hear all the evidence, I should presume to urge upon judge or jury, or both, my opinions of what the verdict and sentence should be, and endeavor to influence the result by an appeal to popular feeling and opinion? In a trial involving the most trifling consequences, this would be an offense justly subjecting the offender to punishment; is it any less so in a case involving the gravest consequences to the person accused?

I wish you, my dear sir, and all others my friends and constituents, to understand that I, and not they, am sitting in judgment upon the President. I, not they, have solemnly sworn to do impartial justice. I, not they, am

responsible to God and man for my action and its consequences. The opinions and wishes of my party friends ought not to have a feather's weight with me in coming to a conclusion. You, as a friend, should advise me to do my duty fearlessly, regardless of the opinions and wishes of men, and of all consequences to myself, and you should add to that advice your prayers that no outside clamor, either of the press or of individuals, no prejudice or passion, no hope of benefit, or fear of injury to myself, no just indignation against the individual on trial, no considerations of party, no regard for those I am most anxious to please, should induce me to swerve from the straight line of impartial justice according to the Constitution and the laws.

I will only add that all statements and rumors with regard to any conclusions expressed or formed by me are entirely without foundation.

Yours very truly,

W. P. FESSENDEN.

NEAL DOW, ESQ.

The defense of the President proceeded. Lorenzo Thomas testified that when he received the two Stanton letters — one to Mr. Stanton and one to himself — from the President, the latter, in a conversation, said that he was determined to support the Constitution and the laws, and desired General Thomas to do the same. That he reported to the President that Mr. Stanton had said: "I do not know whether to obey the instructions or resist them," and the President said: "Go and take charge of the office and perform the duties."

A great mass of documents was put in by the defense, tending to show a long-established custom of removals by the President of civil officers without the Senate's concur-

rence, and with that, on the 20th of April, the defense closed its case. No testimony was added to the record on behalf of the prosecution, and the arguments began on the 22d of April, with the filing of an argument, on behalf of the managers of the impeachment, by Mr. Logan. He was followed by George S. Boutwell, on behalf of the prosecution, and Thomas Nelson for the President followed him. Mr. Groesbeck then addressed the Senate on behalf of the President, and in the course of his speech he referred to and quoted the Sedition Act of 1798, and then said that inasmuch as there was not sufficient law to convict the President for the acts which he had performed, he was about to propose one, and he read his proposed enactment as follows : —

“Whereas, it is highly improper for the President of the United States or any other officer of the executive department, or of any department, to say anything tending to bring ridicule or contempt upon the Congress of the United States, or to impair the regard of the good people of the United States for the Congress and the legislative power thereof (which all officers of the government ought inviolably to preserve and maintain); and, whereas [quoting in part from an argument of the managers], the dignity of station, the proprieties of position, the courtesies of office, all of which are a part of the common law of the land, require the President of the United States to observe that gravity of deportment, that fitness of conduct, that appropriateness of demeanor, and those amenities of behavior, which are a part of his high official functions; and, whereas, he stands before the youth of the country as the exemplar of all that is worthy of ambition, or that is to be sought in aspiration, and before the men of the country as a grave magistrate, and before the world as the representative of free

institutions ; and, whereas, it is the duty of Congress, and especially of the House of Representatives, as the fountain of national dignity, to lay down rules of decorum, and to regulate the manners of etiquette proper for this and every other high officer of the government ; Therefore,

“Be it enacted, etc., that if the President or any other officer, shall say anything displeasing to Congress, or either branch thereof, or shall in any addresses, extemporaneous or written, which he may be required to make in response to calls from the people, say anything tending to impair the regard of the people for Congress, or either branch thereof, or if he shall use any unintelligible phrases, such as that ‘Congress is a body hanging, as it were, on the verge of the government,’ or say that it is a ‘Congress of only a part of the States,’ because ten States are not represented therein ; or, if he shall charge it in such addresses with encroaching upon constitutional rights, however he may think ; or, if he shall misquote or carelessly quote the sacred scriptures, or in any of said extemporaneous addresses use bad grammar, then, and in either of such cases, he shall be guilty of a high misdemeanor, and upon trial and conviction thereof shall be fined in any sum not exceeding \$10,000, or imprisoned not exceeding ten years.

“That is article ten.”

This caused great laughter, and went a considerable distance in making the impeachment ridiculous.

Thaddeus Stevens, for the prosecution, followed Mr. Groesbeck, and confined himself to the eleventh article, the one he personally had drawn. In the course of his remarks he said, after enumerating the offenses of the President, “Yet he continued him in office. And now this offspring of assassination turns upon the Senate, who

have thus rebuked him in a constitutional manner, and bids them defiance. How can he escape the just vengeance of the law? Wretched man, standing at bay, surrounded by a cordon of living men, each with the axe of an executioner uplifted for his just punishment. Every senator now trying him, except such as had already adopted his policy, voted for this same resolution, pronouncing his solemn doom. Will any one of them vote for his acquittal on the ground of its unconstitutionality? I know that senators would venture to do any necessary act if indorsed by an honest conscience or an enlightened public opinion; but neither for the sake of the President, nor any one else, would one of them suffer himself to be tortured on the gibbet of everlasting obloquy. How long and dark would be the track of infamy which must mark his name, and that of his posterity! Nothing is therefore more certain than that it requires no gift of prophecy to predict the fate of this unhappy victim."

Thomas Williams, for the prosecution, followed Mr. Stevens. The peroration of his speech is as follows, and I quote it fully in order that the reader may take in the actual proportion of proof under the articles, and unproven matters which entered into the prosecution's claim for a vote of guilty.

"The not irrelevant question, 'Who is Andrew Johnson?' has been asked by one of his counsel, as it had often been by himself, and answered in the same way, by showing who he *was* and what he had done before the people of the loyal States so generously intrusted him with that contingent power which was made absolute only for the advantage of defeated and discomfited treason by the murderous pistol of an assassin. I will not stop to inquire as to scenes enacted on this floor so eloquently rehearsed by the counsel for the President, with two pictures of so

opposite a character before me, or even to inquire whether his resistance to the hegira of the Southern senators was not merely a question, himself being the witness, as to the propriety and wisdom of such a step at that particular time. The opportunity occurs just here to answer it as it is put, by showing who Andrew Johnson *is* and what he has been since the unhappy hour of that improvident and unreflecting gift. *Eheu! quantum mutatus ab illo!* Alas, how changed, how fallen from that high estate that won for him the confidence of a too confiding people! Would that it could have been said of him as of that apostate spirit who was hurled in hideous ruin and combustion down from heaven's crystal battlements, that even in his fall 'he had not yet lost all his original brightness, nor appeared less than archangel ruined.'

"The master-key to the whole history of his administration, which has involved not a mere harmless difference of opinion, as one of his counsel seems to think, on a question where gentlemen might afford to disagree without a quarrel, but one long and unseemly struggle by the Executive against the legislative power, is to be found in the fact of an early and persistent purpose of forcing the rebel States into the Union by means of his executive authority, in the interests of the men who had lifted their parricidal hands against it, on terms dictated by himself, and in defiance of the will of the loyal people of the United States as declared through their representatives. To accomplish this object, how much has he not done and how much has a long-suffering people not passed over without punishment, and almost without rebuke? Let history, let our public records, which are the only authentic materials of history, answer, and they will say that, for this, instead of convening the Congress in the most momentous crisis of the State, he had issued his royal proclamations for the

assembling of conventions and the erection of state governments, prescribing the qualification of the voters, and settling the condition of their admission into the Union.

“For this he had created offices unknown to the law, and filled them with men notoriously disqualified by law, at salaries fixed by his own mere will.

“For this he had paid those officers in contemptuous disregard of law, and paid them, too, out of the contingent fund of one of the departments of the government.

“For this he had supplied the expenses of his new government by turning over to them the spoils of the dead Confederacy, and authorizing his satraps to levy taxes from the conquered people.

“For this he had passed away unnumbered millions of the public property to rebel railroad companies without consideration, or sold it to them in clear violation of law, on long credits, at a valuation of his own, and without any security whatever.

“For this he had stripped the Bureau of Freedmen and Refugees of its munificent endowments, by tearing from it the lands appropriated by Congress to the loyal wards of the republic, and restoring to the rebels their justly forfeited estates after the same had been vested by law in the government of the United States.

“For this he had invaded, with a ruthless hand, the very penetralia of the treasury, and plundered its contents for the benefit of favored rebels by ordering the restoration of the proceeds of sales of captured and abandoned property which had been placed in its custody by law.

“For this he had grossly abused the pardoning power, conferred on him by the Constitution, in releasing the most active and formidable of the leaders of the Rebellion with a view to their service in the furtherance of his policy, and even delegated that power for the same objects

to the men who were indebted to its exercise for their own escape from punishment.

“For this he had obstructed the course of public justice, not only by refusing to enforce the laws enacted for the suppression of the Rebellion and the punishment of treason, but by going into the courts and turning the greatest of the public malefactors loose, and surrendering all control over them by the restoration of their estates.

“For this he had abused the appointing power by the removal, on system, of meritorious public officers for no other reason than because they would not assist him in his attempt to overthrow the Constitution and usurp the legislative power of the government.

“For this he had invaded the rightful privileges of the Senate by refusing to send in nominations of officers appointed by him during the recess of that body, and after their adjournment reappointing others who had been rejected by them as unfit for the places for which they had been appointed.

“For this he had broken the privileges of, and insulted, the Congress of the United States, by instructing them that the work of reconstruction belonged to him only, and that they had no legislative right or duty in the premises, but only to register his will by throwing open their doors to such claimants as might come there with commissions from his pretended governments, that were substantially his own.

“For this, on their refusal to obey his imperial rescript, he had arraigned them publicly as a revolutionary assembly and not a Congress, without the power to legislate for the States excluded, and as ‘traitors, at the other end of the line,’ in actual rebellion against the people they had subdued.

“For this he had grossly abused the veto power, by

disapproving every important measure of legislation that concerned the rebel States, in accordance with his public declaration that he would veto all the measures of the law-making power whenever they came to him.

“For this he deliberately and confessedly exercised a dispensing power over the test-oath law, by appointing notorious rebels to important places in the revenue service, on the avowed ground that the policy of Congress, in that regard, was not in accordance with his opinions.

“For this he had obstructed the settlement of the nation, by exerting all his influence to prevent the people of the rebel States from accepting the constitutional amendment, or organizing under the laws of Congress, and impressing them with the opinion that Congress was bloodthirsty, and implacable, and that their only refuge was with him.

“For this he had brought the patronage of his office into conflict with the freedom of elections, by allowing and encouraging his official retainers to travel over the country, attending political conventions, and addressing the people in support of his policy.

“For this, if he did not enact the part of a Cromwell, by striding into the halls of the representatives of the people, and saying to one man, ‘You are a hypocrite,’ to another, ‘You are a whoremonger,’ to a third, ‘You are an adulterer,’ and to the whole, ‘You are no longer a parliament,’ he had rehearsed the same part substantially outside, by traveling over the country, and, in indecent harangues, assailing the conduct and impeaching the motives of its Congress, inculcating disobedience to its authority by endeavoring to bring it into disrepute, declaring publicly of one of its members that he was a traitor, of another that he was an assassin, and of the whole that they were no longer a Congress.

“For this, in addition to the oppression and bloodshed

that had everywhere resulted from his known partiality for traitors, he had winked at, if not encouraged, the murder of loyal citizens in New Orleans by a Confederate mob, by holding correspondence with its leaders, denouncing the exercise of the right of a political convention to assemble peacefully in that city as an act of treason proper to be suppressed by violence, and commanding the military to assist, instead of preventing, the execution of the avowed purpose of dispersing them.

“For this, it is not too much to say, in view of the wrong and outrage and the cry of suffering that we have come up to us on every southern breeze, that he had in effect reopened the war, inaugurated anarchy, turned loose once more the incarnate devil of baffled treason and unappeasable hate, whom, as we fondly thought, our victories had overthrown and bound in chains, ordained rapine and murder from the Potomac to the Gulf, and deluged the streets of Memphis, as well as of New Orleans, and the green fields of the South, already dotted with so many patriot graves, with the blood of martyred citizens.

“And because for all that he has not been called to render an account, for the reasons that have been already named, it is now assumed and argued by his counsel, that he stands acquitted by a judgment which disapproves its truth, although it rests for the most part on record evidence, importing that ‘absolute verity’ which is, of course, not open to dispute. This extraordinary assumption is but another instance of that incorrigible blindness on the part of the President in regard to the feelings and motives of Congress that has helped to hurry him into his present humiliating predicament as a criminal at your bar.

“But all these things were not enough. It wanted one drop more to make the cup of forbearance overflow —

one other act that should reach the sensorium of the nation, and make even those who might be slow to comprehend a principle to understand that further forbearance was to ruin all; and that act was done in the attempt to seize by force or stratagem on that department of the government through which its armies were controlled. It was but a logical sequence of what had gone before — the last of a series of usurpations, all looking to the same great object. It did not rise, perhaps, beyond the height of many of the crimes by which it was ushered in. But its meaning could not be mistaken. It was an act that smote upon the nerve of the nation in such a way as to render it impossible that it could be either concealed, disparaged, or excused, as were the muffled blows of the pickaxe that had been so long silently undermining the bastions of the republic. It has been heard and felt through all our wide domain like the reverberation of the guns that opened their iron throats upon our flag at Sumter; and it has stirred the loyal heart of the people again with the electric power that lifted it to the height of the sublimest issue that ever led a martyr to the stake or a patriot to the battlefield. That people is here to-day, through its representatives, on your floor and in your galleries, in the persons alike of the veterans who have been scarred by the iron hail of battle and of the wives and mothers and daughters of those who have died that the republic might live, as well as of the commissioned exponents of the public will, to demand the rewards of their sacrifices and the consummation of their triumph in the award of a nation's justice upon this high offender."

At the conclusion of the last address, General Butler took leave to make a reference to the preceding speech of Mr. Nelson, and in doing it he criticised Mr. Nelson very severely, and questioned his veracity. Whereupon Mr.

Nelson replied to General Butler with considerable spirit, and said: "So far as any question that the gentleman desires to make of a personal character with me is concerned, this is not the place to make it. Let him make it elsewhere, if he desires to do it." Mr. Nelson was at once called to order, and for the present this controversy was dropped, and William M. Evarts then addressed the Senate on behalf of the President. The Senate took an adjournment during Mr. Evarts's address, and when the Senate reconvened, Senator Charles Sumner sent an order to the chair as follows:—

"Whereas, Mr. Nelson, one of the counsel for the President, addressing the Senate, has used disorderly words, as follows, viz : Beginning with personal contest directed to one of the managers, he proceeded to say, 'So far as any question that the gentleman desires to make of a personal character with me is concerned, this is not the place to make it. Let him make it elsewhere, if he desires to do it,' and,

"Whereas, such language, besides being discreditable to these proceedings, is apparently intended to provoke a duel, or to signify a willingness to fight a duel, contrary to law and good morals, therefore,

"Ordered : That Mr. Nelson, one of the counsel of the President, has justly deserved the disapprobation of the Senate."

At the conclusion of this reading, Mr. Nelson started to speak, and asked the necessary unanimous permission. Mr. Sumner objected, unless it was in direct explanation. Mr. Sherman objected to the consideration of the resolution. The Chief Justice asked Mr. Nelson if he proposed to make an explanation. Mr. Butler said he hoped that nothing would be done about the matter. Senator Johnson moved to lay Senator Sumner's resolution on the

table. Mr. Nelson begged to be allowed to say one word. Senator Sumner inquired whether he could do it except by the unanimous consent; the Chief Justice replied that he could not, whereupon Senator Sumner made objection to any persons proceeding "who had used the language in this chamber used by that gentleman." Senator Trumbull moved that Mr. Nelson have permission to make an explanation, and it was carried, whereupon Mr. Nelson said that his remarks were made under the heat of what he might estimate a great provocation; that he intended no offense to the Senate; that as Mr. Butler had signified a willingness that the matter should end, as far as he (Mr. Nelson) was concerned, he desired to say nothing more of a personal character.

Mr. Evarts then proceeded with his address, until adjournment. Upon the reconvening of the Senate, Mr. Sumner brought up his Nelson resolution again. Mr. Johnson again moved to lay it on the table. The yeas and nays were asked for, and Mr. Anthony said that before voting he would like to propose a question to Mr. Nelson. He was allowed to do it, and he asked Mr. Nelson if, in the remark which was quoted in the resolution, it was his intention to challenge the manager alluded to, to a mortal combat? Mr. Nelson replied:—

"It is a very difficult question for me to answer. During the recess of the Senate the day before yesterday, the honorable gentleman (Mr. Manager Butler) remarked to me that he was going to say something upon the subject of *Alta Vela*, and desired me to remain. When the gentleman read his remarks to the Senate, I regarded them as charging me with dishonorable conduct before the Senate, and in the heat of the discussion I made use of language which was intended to signify that I hurled back the gentleman's charge upon him, and that I would answer

that charge in any way in which the gentleman desired to call me to account for it. I cannot say I had particularly the idea of a duel in my mind, as I am not a duelist by profession; but, nevertheless, my idea was that I would answer the gentleman in any way in which he chose to call upon me for it. I did not intend to claim any exemption on account of age, or any exemption on account of other things that are apparent to the Senate. That was all that I meant to signify, and I hope the Senate will recollect the circumstances under which this thing was done. The Senate has treated me and every other gentleman concerned in this case with the utmost kindness and politeness, and has given marked attention to what we have said, and the idea of insulting the Senate is a thing that never entered my mind. I had no such thought or design. I entertain the kindest feelings and the most respectful feelings towards the Senate, and would be as far as any man upon the face of the earth from saying anything which would justly give offense to the gentlemen of the Senate whom I was addressing."

Whereupon, on vote, Mr. Sumner's resolution was laid upon the table.

Mr. Evarts then concluded his argument, which lasted until the first day of May.

An amusing passage between Messrs. Boutwell and Evarts is this: Mr. Boutwell, in his arguments against the President, said:—

"Travelers and astronomers inform us that in the southern heavens, near the Southern Cross, there is a vast space which the uneducated call the hole in the sky, where the eye of man, with the aid of the powers of the telescope, has been unable to discover *nebulæ*, or *asteroid*, or *comet*, or *planet*, or *star*, or *sun*. In that dreary, cold, dark region of space, which is only known to be less than

infinite by the evidence of creation elsewhere, the Great Author of celestial mechanism has left the chaos which was in the beginning. If this earth were capable of the sentiments and emotions of justice and virtue, which in human mortal beings are the evidence and pledge of our Divine origin and immortal destiny, it would heave and throw, with the energy of the elemental forces of nature, and project this enemy of two races of men into that vast region, there forever to exist in a solitude eternal as life, or as the absence of life, emblematical of, if not really, that 'outer darkness' of which the Saviour of man spoke in warning to those who are the enemies of themselves, of their race, and of their God."

Mr. Evarts moved the Senate to much merriment by replying to Mr. Boutwell as follows: —

"I may as conveniently at this point of the argument as at any other pay some attention to the astronomical punishment which the learned and honorable manager, Mr. Boutwell, thinks should be applied to this novel case of impeachment of the President. Cicero, I think it is, who says that a lawyer should know everything, for sooner or later there is no fact in history, in science, or of human knowledge that will not come into play in his arguments. Painfully sensible of my ignorance, being devoted to a profession which 'sharpens and does not enlarge the mind,' I yet can admire without envy the superior knowledge evinced by the honorable manager. Indeed, upon my soul, I believe he is aware of an astronomical fact which many professors of that science are wholly ignorant of. But nevertheless, while some of his honorable colleagues were paying attention to an unoccupied and unappropriated island on the surface of the seas, Mr. Manager Boutwell, more ambitious, had discovered an untenanted and unappropriated region in the skies, re-

served, he would have us think, in the final councils of the Almighty, as the place of punishment for convicted and deposed American presidents.

“At first I thought that his mind had become so ‘enlarged’ that it was not ‘sharp’ enough to discover the Constitution had limited the punishment; but on reflection I saw that he was as legal and logical as he was ambitious and astronomical, for the Constitution has said ‘removal from office,’ and has put no limit to the distance of the removal, so that it may be, without shedding a drop of his blood, or taking a penny of his property, or confining his limbs, instant removal from office and transportation to the skies. Truly, this is a great undertaking; and if the learned manager can only get over the obstacles of the laws of nature, the Constitution will not stand in his way. He can contrive no method but that of a convulsion of the earth that shall project the deposed President to this infinitely distant space; but a shock of nature of so vast an energy and for so great a result on him might unsettle even the footing of the firm members of Congress. We certainly need not resort to so perilous a method as that. How shall we accomplish it? Why, in the first place, nobody knows where that space is but the learned manager himself, and he is the necessary deputy to execute the judgment of the court.

“Let it then be provided that in case of your sentence of deposition and removal from office, the honorable and astronomical manager shall take into his own hands the execution of the sentence. With the President made fast to his broad and strong shoulders, and, having already essayed the flight by imagination, better prepared than anybody else to execute it in form, taking the advantage of ladders, as far as ladders will go, to the top of this great Capitol, and, spurning then with his foot the crest of

Liberty, let him set out upon his flight, while the two houses of Congress and all the people of the United States shall shout, '*Sic itur ad astra.*'

"But here a distressing doubt strikes me: How will the manager get back? He will have got far beyond the reach of gravitation to restore him, and so ambitious a wing as he could never stoop to a downward flight. Indeed, as he passes through the constellations, that famous question of Carlyle, by which he derided the littleness of human affairs upon the scale of the measure of the heavens, 'What thinks Bæotes as he drives his dogs up the zenith in their race of sidereal fire?' will force itself on his notice. What, indeed, would Bæotes think of this new constellation?

"Besides, reaching this space, beyond the power of Congress even 'to send for persons and papers,' how shall he return, and how decide in the contest, there become personal and perpetual, the struggle of strength between him and the President? In this new revolution, thus established forever, who shall decide which is the sun and which is the moon? Who determine the only scientific test which reflects the hardest upon the other?"

Mr. Stanbery, on behalf of the President, followed Mr. Evarts. Then came Mr. Bingham, with his argument for the prosecution, which he concluded on the 6th of May. Some miscellaneous business connected with the trial was then enacted by the Senate, including a resolution that each senator shall be permitted to file, within two days after the vote shall have been so taken, his own opinion. The question which should be put to each senator upon voting, and how the vote should be taken, was agreed to.

On May 11 the senators held a session "for deliberation," and Senators Fessenden, Fowler, Grimes, Henderson, Trumbull, and Van Winkle declared themselves

in favor of acquittal upon all the articles, while among the other senators the second, third, and eleventh had the most support.

On the 16th of May, Mr. Williams, one of the managers for the prosecution, made a motion that the senators should vote, first, on the eleventh article. That not being a debatable question by the Senate, the yeas and nays were ordered and the vote was: Yeas, 34; nays, 19. Senators Fessenden, Henderson, Ross, Trumbull, and Van Winkle, Republicans, voted against that resolution. Mr. Grimes did not vote. The Senate then proceeded to vote upon the eleventh article.

Senator Fessenden wrote (May 3d):—

“We shall finish up the impeachment this week. Everybody is tired and I am satisfied that with present light the thing never would have begun. People now say, as I have always told them here, that the result is to be disastrous anyway. I have opposed it from the beginning, and the responsibility is not on me even for the foolish vote of the Senate, which I refused to vote for; after that vote the House could hardly be expected to do otherwise than impeach him, and the Senate is therefore responsible both as accuser and judge. The whole country, including Maine, is, I see, in a furious state of excitement. I have received several letters from friends warning me that my political grave is dug if I do not vote for conviction, and several threatening assassination. The first is quite probable, but such considerations do not affect me; I should feel a sense of personal dishonor if they did. Let it be so; I shall be resigned if my sense of duty and justice lead to that result. The probable effect of an acquittal upon the country is a more serious consideration; but such apprehensions can afford no justification of the violation of my oath. At any rate, the responsibility must

rest upon those who have urged forward this matter, regardless of all consequences, against my remonstrances and repeated warnings. Make up your mind, if need be, to hear me denounced a traitor and perhaps hanged in effigy. I have not yet formed a conclusive opinion, but my vote will be given according to my convictions, whatever they may be. The result is, in my judgment, quite uncertain; it takes but seven Republican votes to acquit; three have informed me of their intention to vote for acquittal on all of the articles, and there are seven or eight more who say they find great difficulties in their way. I am utterly weary and disgusted with the great trial. All imaginable abuse has been heaped upon me by the men and papers devoted to the impeachers, and, unfortunately, the mass of the people do not understand the question. Mr. Greeley has improved the occasion to vent his spite, and others have followed his example. These people do not know that I am own cousin to you, and, consequently, it is not an easy thing to drive me. There is some talk of a ten days' recess after this matter is decided, in which case I should like to come home. I should much like to see you all, to look at the garden and feel that there are a few persons left in the world who love me none the less for not sacrificing my sense of right to outside clamor or party expectancy; that is, *if* I vote against conviction."

Senator Justin S. Morrill of Vermont and Senator Fessenden were devoted friends, and the following letter from Senator Morrill added much to the pain with which Senator Fessenden came to his decision to vote not guilty.

WASHINGTON, D. C., May 10, 1868.

DEAR FESSENDEN, — If you do not know it, it is nevertheless a fact, that there is no man on earth for whom I

have so much affection and admiration as yourself, and I want you *right* all the time. You need not fear that any vote you may feel it your duty to give will forfeit my esteem, but I want it such a vote as you can defend without tearing your life out of you for the rest of your days. I am satisfied the best legal learning of the Senate will sustain the 1st, 2d, and 3d Articles of Impeachment. My opinion is of no value, but with a very close attention to the subject for two months, I think there is no doubt about it. Bingham leaves no chance, as it seems to me, for argument touching the Legal Tenure Act. Not much in favor of this act nor of impeachment as original questions, yet I must do my duty at all hazards. I hope my judgment is not warped by political considerations.

But, my friend, I want you right on the constitutional and legal questions involved. I have ever contended you would be, and do not now know at all what you propose to do ; but I do know this, that you could do nothing which would fulfill the ancient grudge of a certain clique of your foes sooner than a vote on your part in favor of Andrew Johnson. As an idol of a very large portion of our people you would be knocked off your pedestal. Then, the sharp pens of all the press would be stuck into you for years, tip'd with fire, and it would sour the rest of your life. As independent as I know you really are, I feel that this abuse would drive you into the company of Cowan and Doolittle within six months. I feel that I cannot have this so. You must be right. You cannot afford to be buried with Andrew Johnson, nor can a poor devil like myself afford to have a cloud of suspicion thrown on the correctness of his vote by a wholly different vote given by yourself on a question of so grave consequences as that pending. I know that this may be selfish, but I know that there is no other aspect of this case where any particle of

self crops in. All my feelings would lead me to protect and defend your reputation. All I desire in the present issue is justice to the President and to our country.

For your happiness I hope you will not become a sour croaker without any faith in the future. For your happiness I trust you will be sure you are right, and I beg pardon for this intrusion. I could not do less.

Sincerely and devotedly now and always yours,

JUSTIN S. MORRILL.

Hon. WM. PITT FESSENDEN, U. S. S.,
Washington, D. C.

May 13th: "The agony is over, so far as I am concerned, and having resolved, it is enough to say that I could come to no other conclusion, and not for all this world could I violate my oath to party mandates. It is rather hard that at my time of life, after a long career, which I believe has been honorable, to find myself the target of pointed arrows from those whom I have faithfully served, for what I should know to be the one act of my life for which I am most entitled to the respect and confidence of all men. It is not an uncommon case, however. The public, when roused and excited by passion and prejudice, is little better than a wild beast, and, unfortunately, the men who now guide and control it are both dishonest and incapable, or either one or the other. However, I have nothing to repent of, be the consequences to me personally what they may. I shall at all events retain my own self-respect and a clear conscience, and time will do justice to my motives at least."

For several days prior to the taking of the vote, Senator Fessenden's letters assumed a very threatening tone. The letters from Maine were particularly savage. He was told that if he voted against conviction, he might as well

leave Maine; that a Republican senator who voted for acquittal could never look his constituents in the face. One well-known man in Maine wrote him that he "never believed he could betray his party, and begged him not to crush the people of Maine with shame and misery." Another: "He would not dim his glorious record by voting against conviction." Another: "Is it possible that you have turned traitor and that your name will be handed down with that of Benedict Arnold?" He was begged not to sell his integrity, not to give the devil the first chance, but to give it to his country. One writer asked him to name his price and thus save his name from dishonor worse than Booth's. A meeting of workingmen in Philadelphia declared that his course would blacken his memory for all time.

These are but samples of the notes and letters — and most all from people who in the past had been his friends and political helpers — which were sent him. More mass meetings were now held in Washington, in the principal cities of Maine, — in Lewiston, Bangor, Gardiner, Bath, and in Portland, Senator Fessenden's own city, — all resolving that the President was guilty, and that the clear duty of Senator Fessenden was to so vote. His old friend, Rufus Dwinell of Bangor, an important and much respected man in Maine, wrote Senator Fessenden twice, in the first letter asking him if he was willing to sacrifice himself forever and place himself in a position to defy the wishes of his party; was his individual opinion better than all others; the bitterest feelings were felt against him; he must not desert his party; he was bound to vote for conviction to satisfy those who elected him; his action, adverse to his friends, would irrevocably ruin his standing.

The second letter said that Mr. Dwinell grieved over Mr. Fessenden's position. His standing was only a fea-

ther's weight against the storm of indignation that was raging. He could not go against all his friends and his party; his resignation was the only thing that remained. Mr. Dwinell regretted to say this, for no one grieved more than himself over Mr. Fessenden's downfall. Mr. Fessenden replied as follows:—

WASHINGTON, May 22, 1868.

MY DEAR SIR, — Among all those who call themselves my friends, from whom I have received letters, you are the only one who has seemed not to be aware that I was acting under the solemnity of an oath; or, if that was not forgotten, who has called upon me to violate that oath in obedience to the wishes of my constituents, and because not to do so would expose me to the loss of popular favor.

Knowing me as long and intimately as you have, it is somewhat astonishing you could suppose for a moment that I could be influenced by such unworthy considerations. You must have been aware, my friend, that I knew well what I should have to meet. I had much to put at hazard; all my apparent interests and all my comfort, the loss of that popular favor which has ever followed and sustained me. Of course, I well understood that all those who desired to put another man in my place and to destroy my influence and standing for that purpose, would seize the occasion to break me down. On the other hand, I had nothing to gain. The President has nothing to give, even if there was anything I desired. What, then, could induce me to vote for his acquittal but an imperative sense of what was due, not so much to him, as the great office he holds, and above all to myself as a judge, sworn in all things "to do impartial justice."

Let me quote a few lines from your letters: "You cannot, must not desert us. You have no right to assume

you know more than all others. If for nothing else, to satisfy those who elected you, you are bound to vote for conviction."

Do you know how atrocious such a sentiment is, addressed to a judge and juror acting under the solemnity of an oath? It implies, avers, that whatever I may think, whatever I may believe, I must base my vote upon the wishes of those who elected me.

Mr. Dwinell, if I followed your advice I could not look an honest man in the face. I should feel a degree of self-contempt which would hurry me to my grave. The people of Maine, yourself among others, must do as they see fit. If they wish for a senator a man who will commit perjury at their bidding, either from party necessity or a love of popular favor, I am not that man. He who may be selected to succeed me on such grounds, and be willing to take the office, would, of course, sell his constituents as readily as he sold his honor and his conscience. I should pity not only him, but the people who selected him.

You say you shall "grieve over my downfall." Give yourself no anxiety on that account. The loss of office will not trouble me. It will be attended with no disgrace, but the cause of it will, I know, redound to my honor, and will not do much credit to a people who reject a public servant because he had the courage to do his duty at the risk of forfeiting their good will. But I cast behind me all personal considerations, and if I live to get home once more I shall meet my friends and constituents with the proud consciousness that, in acting as I have done, their honor as well as my own is not lost, but preserved. I say these things in all kindness to you and all others. It is not at all strange that they should have been excited. They could not look upon this question as I was com-

pelled to look at it, and as the whole nation is already beginning to see it.

They thought we were trying the President for all his sins of omission and commission, and not on specific charges beyond which we could not go. They were made to think this trial a political and not a judicial question. Thinking men all over the country are now beginning to consider it in all its aspects. The course of some party newspapers has excited a general burst of indignation. I am receiving letters every day from ardent radicals thanking me for setting so good an example, and when the country comes to know, as it soon will, the infamous course of those, or most of those, who have raised this storm, the indignation will all be on the other side.

Those public meetings to pass resolutions upon such a matter were got up in obedience to directions from Washington, and were all wrong. But the resolution passed at Bangor was respectful and kind, and a meeting which, under such excitement and misapprehension, treated me with so much consideration, is entitled to my thanks.

Will you please say to Mr. Fenno and Mr. Hallowell that I have read their letters. Tell Mr. H. that he is mistaken in his facts. I voted for neither the Tenure of Office Bill, nor the Senate resolution, and opposed impeachment from the beginning as unwise and likely to do the party great injury, whether it succeeded or failed.

Your friend truly,

W. P. FESSENDEN.

R. DWINELL, Esq.

The excitement at this time at the Capitol is described in a letter by Senator Fessenden, as follows:—

“Here a change of administration had long been contemplated and was now counted upon as a certainty. They looked for a change and its usual attendants. The coming

in of a new President could hardly have warmed into life a more numerous brood of expectants or stimulated more extensive hopes of honors and profits. The city was filled with men ready to jump into places to be made vacant, as they hoped and believed, for their benefit. Gamblers thronged the saloons, staking more than they were able to pay, upon conviction or acquittal. As those hopes fell or rose with the rumors of the hour, as impeachment stock went up or down upon the political exchange among the crowd of hungry expectants, so, for a time, rose and fell the character and reputation of those senators upon whose votes the result was supposed to depend ; while the telegraph was at hand to carry over its wires to the homes and friends of those senators every calumny which disappointed ambition or cupidity and malignity could invent, and while a portion of the press, claiming for itself a character for decency and even Christian virtue, stood ready to indorse and circulate the lie."

Senator Ross of Kansas, who was a member of the court, described the moments preceding the vote as follows :—

"Upon the closing of the hearing, even prior thereto, and again during the few days of recess that followed, the Senate had been carefully polled, and the vote of every member—save one—ascertained and authoritatively registered in scores of private memoranda. Two thirds of the Senate were necessary to convict. There were fifty-four members, all present. According to these private memoranda, the vote would stand eighteen for acquittal, thirty-five for conviction, one short of two thirds. What would the one vote be, and could it be had? were queries asked of one another in all manner of places, and at all hours of the day and night, more especially among those who had set on foot the impeachment and staked their all



“THE BAULKY TEAM ON THE EDGE OF THE PRECIPICE”

A contemporary cartoon

upon its success. Given for conviction and upon sufficient proofs, the President must step down and out of his place, the highest and most honorable and honoring in dignity and sacredness of public trust known in the constitution of human governments, a disgraced man and a political outcast. If so cast upon insufficient proofs and from partisan considerations, the office of President would be degraded, cease to be a coördinate branch of the government, and ever after subordinated to the legislative will. Before this accumulating power even the judiciary must sooner or later, in its turn, have declined in quality and dignity. It would practically have revolutionized our splendid political fabric into a partisan congressional autocracy. A tremendous political tragedy was imminent.

“On the other hand, that one vote given for acquittal, if warranted by the testimony, would free the office of President from imputed stain of dishonor and strengthen and solidify our triple organization and distribution of powers and responsibilities. It would preserve the even tenor and course of administration, and effectually impress upon the world a conviction of the strength and grandeur of republican institutions in the hands of a free and enlightened people — institutions rendered vastly more substantial and enduring by reason of having passed successfully and safely through the fiery ordeal of partisan prejudice and turmoil into which they had been cast.

“The city of Washington was a seething caldron. Thousands of people had been drawn thither from all parts of the country; many by their anxious interest in the trial and its result, many in the hope of having an opportunity to aid in some way the side on which their sympathies were enlisted, others from curiosity and for the enjoyment of the excitement of the occasion; but many more by the expectation of political preferment on

the anticipated removal of the President and the resulting change of partisan dominancy in the executive office. Throughout the country, and in all walks of life, as indicated by the correspondence of members of the Senate, the condition of the public mind was not unlike that preceding a great battle, the issue of which was to be determined by the one unregistered vote.

“Rumors of plots and counterplots were rife. It was stated that large sums of money were sought to be used to influence votes, that intimidation and violence were threatened and intended, and there was better foundation for those rumors than the general public then knew. Where partisan fealty was likely to fail to control the action of the senators, one or the other of these agencies was resorted to, — sometimes both, — but in ways that, while perfectly understood, were so guarded as not to afford sufficient ground to warrant bringing the offenders to the bar of the Senate. Even the tongue of scandal was employed as a weapon of coercion. But those who stooped to that base device mistook their intended victim, as did those who acted on the equally erroneous presumption that poverty predisposes to venality. But the most astonishing and startling of all was the fact that demands were received by telegraph from constituents of members of the court, brazenly dictating the nature of the verdict they should render.”

On the 16th day of May the Senate convened for the trial at twelve o'clock in the forenoon. The galleries were crowded. The Secretary of the Senate was directed to inform the House of Representatives that the Senate was now ready to receive them in the senate chamber, and the members of the House entered. Mr. Williams, one of the managers of the prosecution, moved the consideration of the order submitted previously to direct the

Secretary to read the eleventh article first, and to take up the question on that article and the other ten successively. This was done because the managers thought that they had made out their strongest case for conviction on the eleventh article. The order was adopted, thirty-four to nineteen, and it was then ordered that the Senate proceed to vote. The Chief Justice admonished the citizens and strangers in the galleries that absolute silence and perfect order were required. The Secretary then read the eleventh article in full, as follows:—

“That said Andrew Johnson, President of the United States, unmindful of the high duties of his office, and of his oath of office, and in disregard of the Constitution and laws of the United States, did, heretofore, to wit, on the 18th day of August, A. D. 1866, at the city of Washington and the District of Columbia, by public speech, declare and affirm, in substance, that the Thirty-ninth Congress of the United States was not a Congress of the United States authorized by the Constitution to exercise legislative power under the same, but, on the contrary, was a Congress of only a part of the States, thereby denying, and intending to deny, that the legislation of said Congress was valid or obligatory upon him, the said Andrew Johnson, except in so far as he saw fit to approve the same, and also thereby denying, and intending to deny, the power of the said Thirty-ninth Congress to propose amendments to the Constitution of the United States; and, in pursuance of said declaration, the said Andrew Johnson, President of the United States, afterwards, to wit, on the 21st day of February, A. D. 1868, at the city of Washington, in the District of Columbia, did, unlawfully, and in disregard of the requirements of the Constitution that he should take care that the laws be faithfully executed, attempt to prevent the execution of an act

entitled, 'An act regulating the tenure of certain civil officers,' passed March 2, 1867, by unlawfully devising and contriving, and attempting to devise and contrive, means by which he should prevent Edwin M. Stanton from forthwith resuming the functions of the office of Secretary for the Department of War, notwithstanding the refusal of the Senate to concur in the suspension theretofore made by said Andrew Johnson of said Edwin M. Stanton from said office of Secretary for the Department of War; and also by further unlawfully devising and contriving, and attempting to devise and contrive, means then and there to prevent the execution of an act entitled, 'An act making appropriations for the support of the army for the fiscal year ending June 30, 1868, and for other purposes,' approved March 2, 1867; and also to prevent the execution of an act entitled, 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, whereby the said Andrew Johnson, President of the United States, did then, to wit, on the 21st day of February, A. D. 1868, at the city of Washington, commit and was guilty of a high crime and misdemeanor in office."

The opinions of most of the senators were known. There were fifty-four present. According to the estimate from the *known* opinions of senators, the vote would stand eighteen for acquittal and thirty-five for conviction, thus failing of conviction by one vote, thirty-six being wanted out of fifty-four. Seven Republican votes of "not guilty" were needed to acquit. Of these it was known that Fessenden, Fowler, Grimes, Henderson, Trumbull, and Van Winkle would vote "not guilty." The position of Ross of Kansas, a Republican, was an uncertainty. It was thought that he was for acquittal. Two days before the vote was taken he received a dispatch from his State

saying, "Kansas has read the evidence, and demands the conviction of the President. (Signed) D. R. Anthony and one thousand of our truest and best men."

Senator Ross had immediately replied that he did not recognize their right to demand that he should vote for or against conviction; that he had taken an oath to do impartial justice, and he hoped to have the courage to vote according to the dictates of his judgment.

As the moment approached for taking the vote, Senator Grimes entered, suffering from a paralytic stroke of two days before; he had insisted upon being carried from his bed to the senate chamber, into which he was borne by four men who placed him in his seat. When his name was called to vote, the Chief Justice said he might remain seated; but with the assistance of friends he rose, and to the interrogation of the Chief Justice, he replied, with firm voice, "Not guilty." Writing of the occasion afterwards, to a friend in Iowa, Mr. Grimes said:—

"I shall ever thank God that in that troubled hour of trial, when many privately confessed that they had sacrificed their judgments and their consciences at the behests of party newspapers and party hate, I had the courage to be true to my oath and my conscience and refuse, when I had sworn to do a man impartial justice according to the Constitution and the laws, to do execution upon him according to the dictation of the chairman of the Republican Congress or the howlings of a partisan mob. I would not to-day exchange the recollection of that grasp of the hand and that glorified smile given me by that purest and ablest of men I have ever known, Mr. Fessenden, when I was borne into the senate chamber in the arms of four men, to cast my vote, for the highest distinction of life."

The first senator to vote was Senator Anthony. He rose in his place when his name was called by the clerk, and

the Chief Justice said to him: "Mr. Senator Anthony, how say you? Is the respondent, Andrew Johnson, President of the United States, guilty or not guilty of the high misdemeanor as charged in this article?" Mr. Anthony: "Guilty."

This form was continued in regard to each senator, and they voted according to their previously announced intention, until the name of the first Republican senator who might vote "not guilty" was called.

"Mr. Senator Fessenden, how say you? Is the respondent, Andrew Johnson, President of the United States, guilty or not guilty of the high misdemeanor as charged in this article?"

Senator Fessenden, gray and worn, standing as he heard the question, gazing into his political grave, as he thought, voted, with an even and clear voice, "Not guilty," one vote of the necessary seven required for acquittal.

A quarter of a century later, Senator Ross wrote an interesting book on this trial in which he says:—

"Senator Fessenden of Maine was the first of the Republican senators to vote 'not guilty.' He had long been a safe and trusted leader in the Senate, and had the unquestioning confidence of his partisan colleagues, while his long experience in public life and his great ability as a legislator, and more especially his exalted personal character, had won for him the admiration of all of his associates regardless of political affiliations. Being the first of the dissenting Republicans to vote, the influence of his action was feared by the impeachers, and most strenuous efforts had been made to induce him to retract the position he had taken to vote against conviction. But being moved on this occasion, as he had always been on others, to act upon his own judgment and conviction, though foreseeing that his vote would probably end a long career of con-

spicuous public usefulness, there was no sign of hesitancy or weakness as he pronounced his verdict."

The vote went on, on the expected lines, Senator Fowler voting "not guilty," two for acquittal of the needed seven, Senator Grimes, three, Senator Henderson, four, and then came the supreme moment, the vote of Ross, a Republican, whose intention was not known. "Mr. Senator Ross, how say you? Is the respondent, Andrew Johnson, President of the United States, guilty or not guilty of the high misdemeanor as charged in this article?" His first response to the demand of the Chief Justice was unintelligible in the distant parts of the chamber; a repetition of his vote was called for by several senators, and the Chief Justice again put the question, and Senator Ross replied in prompt and decided tones, "Not guilty." A buzz of conversation and expression of feeling followed which had to be checked by the Chief Justice. The call proceeded, and with the votes for acquittal of Trumbull and Van Winkle, making the seven Republican votes necessary to save the President, impeachment was defeated, the votes standing thirty-five "guilty" and nineteen "not guilty." The Senate, sitting as a Court of Impeachment, thereupon adjourned to meet at twelve o'clock on Tuesday, the 26th of May. The throng in the galleries dispersed, the members of the House of Representatives withdrew, and Senator Fessenden, alone, erect, but ashen of face, walked through the Capitol and proceeded to his home, amid the jeers and curses of the angry and disappointed mob, entered his lonely chamber, and, with no friendly hand or loving voice of sympathy to comfort and encourage, stood alone, facing the ruin of his career, and then, for the first time, the great heart faltered and he threw himself, sobbing, upon his couch in the presence of his colored serving man.

CHAPTER X

AFTERMATH OF IMPEACHMENT

1868

THE morning broke, after the vote, more bright for the senator. Those who had striven to coerce his vote were those who did not have the sense of fitness to tell them that it was not right to communicate their wishes to a judge before he rendered his decision. The vote of the day before had been telegraphed to every town and city in the country, and to Europe, and while Senator Fessenden had tossed in troubled sleep, the telegraph wires were busy bringing to him the opinions and commendations of those who had forborne to express their opinion until his action was decided. He awoke to find awaiting him an avalanche of cheering and commendatory messages from all over the country from its best men, Republicans as well as Democrats, and from the great men of Europe who had watched the drama which had just been concluded. In an hour his misery was changed to content; for he knew that while he might have forfeited the political support of the party of which he had hitherto been a revered and honored leader, he had with him the good opinion of those whose judgment, he thought, was founded in high-minded intelligence.

During the ten days between the vote on the eleventh article and the 26th of May, the adjourned day, renewed efforts were made and more pressure was put upon him to induce him to vote "guilty" on one or more of the

William Pitt Fessenden in 1848



remaining articles, but in vain. On the 26th of May the Senate voted thirty-five "guilty," nineteen "not guilty," on the second and third articles, and adjourned *sine die*. The other articles were never brought to vote.

During the period between the vote on article eleven and the vote on the second and third articles, Senator Fessenden had recovered his spirits enough to write cheerfully: "We four men, Grimes, Trumbull, Henderson, and myself have had, and are having, a hard time of it, but it seems to agree with me so far, for I am very well. Time, I think, will show the utter vileness of most of those who have urged on this impeachment folly and the cowardice of others; but we must let the storm rage for the present; I am content to wait. Bill (his son William) arrived yesterday, and I was delighted to see the dear fellow. I made him admit that he came to take care of me; that was all nonsense, but I love him none the less for it. I am getting letters from Republicans in Maine and elsewhere, saying that all want to get rid of the President, and I must do my duty and they will stand by me."

May 27 he writes: "We have now finished up the impeachment, and I hope we shall begin to make progress in business so as to get home before the summer is ended. I am determined to get away at all events. During the long trial I have been forced to hold my tongue, but I am mad enough to let out upon everybody at the first opportunity. Among all the disagreeables, I have most felt the necessity of grieving Mr. Stanton, next the gratifying Sumner; but I am fast getting consoled for the latter."

On May 23 he writes: —

William's visit was a very great comfort and pleasure to me; in my troubles it is an agreeable relief to see a

loving face. Yesterday I had a kind and manly letter from James. I glory more in having three such sons than in all else. They at least will understand and appreciate the sacrifice I have been obliged to make in the discharge of my duty. The satisfaction of knowing that I have acted from the purest motives and a devotion to the honor and best good of my country, regardless of my own personal interest and comfort, cannot be taken away from me. The whole thing, however, has made me sick at heart. I have seen in the Senate so much of meanness, such utter want of conscientiousness, such base cowardice, even among men calling themselves Christians, that I almost despair of the future, and when I look around me and see what the people are, how easily misled, how willing to be both unjust and ungenerous, I am surprised that anybody should be willing to render them an honest service.

Mr. Trumbull is fortunate in having in his own city two leading papers, under the control of upright and independent editors who have the manliness to step forward in his defense. The result, I am happy to say, has been to raise the already high character of the papers and to increase their subscription lists. Mr. Richardson is a good friend of mine, and would, no doubt, be glad to do the like. But the course of the "Press" is pusillanimous and weak. It is suffering the proper time to go by, and permitting false principles to become fixed in the public mind. The paper should publish the opinions of the press. People are influenced by the opinions of others. I inclose you a slip from the "Chicago Tribune" and also an extract from an article in the last "Harper." That paper speaks boldly and manfully for the right — our "Portland Press" has not yet learned that to be influential a paper must have a character of its own. Until it has, it must

always play a small fiddle. The Chicago Convention did not obey the dictates of certain gentlemen here, and read us out of the party. It now remains for us to decide whether we chose to stay in. If the party desires to swap me off for Ben. Butler, I shall enter no protest. I owe the party nothing and have no favors to ask. With much love to all, and thanking Jim for his letter, I am, most affectionately, your father,

W. P. FESSENDEN.

May 31 he writes: "The truth will leak out and the people learn to estimate this impeachment folly at its true value. The tide has fairly turned and the belief is fast gaining ground that the 'seven' have saved the party from utter ruin. Wade & Co. are terribly sore over their defeat, and have already become of little consequence. They do not dare to make a move."

The abuse showered upon Mr. Fessenden for some time after the trial is incredible; he was charged with being actuated by jealousy and personal dislikes. The action of the seven senators was called "the conspiracy" in the Senate. It was openly charged in the newspapers that Senator Fessenden had been bribed to vote as he did; but by this time he knew that much valuable representative opinion was that he had been patriotic and honorable in his course. He had a kindly letter from his old partner, Hon. William Willis. The letter and reply are as follows:—

MY DEAR FESSENDEN,—I think of you much, my friend, in the trying position in which you are placed in the impeachment question. I have felt from the beginning the weakness of the charges against the President, and their inadequacy for so grave a movement. Although

I have deeply regretted his whole policy as calculated to keep up a dangerous agitation in the country, I do not wish to see great principles violated by the use of public or doubtful measures to remove it.

The excitement here is very great; and the first impulse is to reproach you, especially by the radical politicians. But I have always believed and maintained that your constant and fearless mind would not be swerved from the right, whatever might be the consequences.

On this ground you will stand firm; no party clamor or partisan rancor can hurt you. The *mens conscia recti* will sustain you, whatever temporary ill blast may blow from heated politicians or fiery demagogues. "They have their day and cease to be." In the mean time, in whatever action your judgment may dictate, you will have the respect and approval of honorable men who regard principle more than expediency, and will choose that you be governed in this emergency by honest conviction.

Believe me, always your constant friend,

WM. WILLIS.

MY DEAR WILLIS, — You have known me too long and too intimately, I trust, to have believed for one moment any of the vile calumnies which have been so industriously circulated, imputing to me all sorts of motives but the right ones. They are, I need not say to you, without even a shadow of truth. I have not been bribed. I have been actuated neither by jealousy, malice, nor disappointed ambition. Nor have I been a party to any political scheme. In fact, there is none such anywhere except with the noisy demagogues who have been active in the impeachment folly—among whom, I am happy to say, are none of the Maine delegation.

The simple truth is, I was and still am unable to see

any just ground for convicting the President upon any of the charges against him. I advised and warned the Senate against passing the resolution they did pass upon Mr. Stanton's removal, and refused to vote for it, because I doubted whether the President had violated any law, or done more than he had a legal right to do, whatever might be his motives. I foresaw, too, and so stated, that the House would make the resolution a ground of impeachment, and thus place the Senate in the position of accusers and judges. I foresaw, from the beginning, and so repeatedly stated, that impeachment must bring disaster to our party, whether it succeeded or failed. But certain men could not bear to wait, and when the President foolishly removed Stanton, the tide of wrath swept everything before it. Having once begun, conviction was demanded by the same men as a party necessity, and no means, however base, have been omitted to accomplish the result desired. Unfortunately, the country could look only at Mr. Johnson, and his conviction has been demanded because he was Mr. Johnson, and had made himself odious to the people who had elected him. Taking advantage of this feeling, every effort has been made to rouse the passion of men against any man who felt that he was bound to try Mr. Johnson as he would try any other person upon the specific charges against him, and to regard the oath he had taken, and the foulest means have been resorted to for the purpose of frightening senators into a verdict. Time will develop the truth, and I must wait for it patiently. Much as I value the good will of my constituents I would not, for all the honors of this world, render judgment against the meanest wretch who ever walked the earth, if I thought that judgment was not justified by the law and the evidence. Whatever comes, I must retain my own self-respect.

Any one who takes the trouble to think must see that I had every possible motive to vote for conviction. By doing otherwise, I knew I should sacrifice my comfort, offend my friends, and in all probability alienate the great mass of those who had so long given me their generous support, besides exposing myself to the ribald abuse of a reckless and infuriated partisan press. On the other hand, I had nothing in the world to gain. I had and could have no sympathy with Mr. Johnson or those who supported him. He is utterly powerless and must remain so. But notwithstanding all this, I could not do an act which my deliberate judgment did not approve. I could not consent to look upon impeachment as a mere question of party, or shape my course under the dictation of public meetings inflamed by passion.

Still, I do not wonder at the intensity of public feeling, and have no reflections to cast upon anybody. Possibly, had I been at home, and freed from the personal responsibility under which I was compelled to act, I should have shared that feeling. It was hard enough to keep down my own strong impulses towards conviction as it was. The great mass of the people could not understand that we were trying Mr. Johnson for specific offenses, and not for his whole public course. Even the resolution passed at Portland shows this fact. I, however, acting in a judicial capacity, was forced to ignore all but the charges before me, and I could not recognize the right of any man or set of men to dictate my decision.

I see by the "Press," received this morning, an Associated Press report of the ticket agreed on at Judge Chase's dinner. Of course it is all unmitigated falsehood — there was no such dinner or meeting. I have consulted with nobody in relation to any such matters, nor, as I believe, has any one of the gentlemen named. If Judge Chase

has any supporters for the Presidency in the Senate, they will be found among those who supported conviction. In fact, every rumor that has gone through the papers is utterly unfounded except that no one knew what my opinion was. Excuse me for writing you so much at length.

Yours always truly,

W. P. FESSENDEN.

Hon. WM. WILLIS.

The violent abuse and loss of friends experienced by Mr. Fessenden, in consequence of his vote for acquittal, were not without compensation. In losing some old friends he gained many new ones. Communications from the most eminent judges, financiers, lawyers, and merchants, commendatory in their nature and expressive of confidence and belief in his virtue and honor, poured in upon him from every quarter. Benjamin R. Curtis wrote him shortly after the trial: "I say with entire sincerity that no man in my time has been in a position to render so great service to the Constitution of our country as you have been enabled to render, and that you have completely performed the work."

Chief Justice Bigelow of the Supreme Court of Massachusetts: "I venture to write you this note for the purpose of saying that there are many firm and consistent Republicans here who rejoice in the courage and independence which you have shown in declaring your conscientious convictions upon the several issues involved in the impeachment trial."

A. J. Drexel, of Philadelphia: "After reading your able and convincing speech in favor of right and justice and the Constitution, I feel impelled to write you to say how much I admire the noble stand taken by you and the other senators of the Republican party, who, despite polit-

ical clamor, came to the rescue of the country in this its hour of peril."

Hon. William Gray: "You and your six associates have saved the Senate and the country from the disgrace which would have attached to both if the highest judicial tribunal had submitted to become the mere register of a partisan edict."

The foregoing are but samples of notes and letters which came to Senator Fessenden in the weeks succeeding the great trial, which by degrees completely took the wretchedness from his heart. During the summer which followed the trial, Senator Fessenden was much gratified by an invitation to a public dinner at Boston signed by men so distinguished that it implied a very great personal compliment. I insert the letter of invitation and his reply thereto as an interesting exposition from him of his views of the impeachment and what brought it about: —

BOSTON, June 10, 1868.

HON. WILLIAM P. FESSENDEN:

Dear Sir, — The undersigned members of the National Republican Party are desirous of expressing to you our sense of the value of your public services.

While some of us strongly dissent from the conclusion at which you arrived with regard to the conviction of President Johnson, we all heartily recognize and admire your courage and conscientiousness under circumstances of peculiar difficulty.

We beg the honor of your company at a public dinner to be given in the city of Boston at such time as may suit your convenience.

With great respect, your obedient servants,

ALEX. H. BULLOCK,
GEO. TYLER BIGELOW,

CHARLES ALLEN,
SAMUEL BOWLES,

THOMAS HILL,	JOSHUA C. STONE,
EMORY WASHBURN,	A. G. BROWNE, JR.,
RICHARD H. DANA, JR.,	WALDO HIGGINSON,
AMOS A. LAWRENCE,	CHARLES S. STORROW,
JOHN M. FORBES,	CHARLES H. DALTON,
E. R. MUDGE,	EDMUND DWIGHT,
HENRY LEE,	HENRY G. CLARK,
PELEG W. CHANDLER,	C. WM. LORING,
EDWARD T. RAND,	GEORGE HIGGINSON,
WILLIAM DWIGHT,	BENJAMIN S. ROTCH,
T. R. PAYSON,	S. FROTHINGHAM, JR.,
FRANCIS PARKMAN,	GEO. N. MACY,
J. ELLIOT CABOT,	FRANCIS W. HURD,
J. RUSSELL LOWELL,	J. M. DAY,
CHAS. ELIOT NORTON,	ROBERT T. PAINE, JR.,
ASA GRAY,	JOHN JEFFRIES, JR.,
JOHN H. CLIFFORD,	PATRICK T. JACKSON,
AUGUSTINE HEARD,	STEPHEN N. BULLARD,
GEO. WM. BOND,	JOHN GARDNER,
ROBERT M. MASON,	EDWARD C. CABOT,
F. W. LINCOLN, JR.,	JOHN C. ROPES,
GEO. O. SHATTUCK,	D. A. DWIGHT,
GEO. S. HALE,	ALGERNON COOLIDGE,
GEO. H. GORDON,	B. F. NOURSE,
SAMUEL ELIOT,	GREELY S. CURTIS,
HARRISON RITCHIE,	A. J. C. SOWDON,
FRANCIS BROOKS,	JAS. J. STORROW,
EDWARD ATKINSON,	GEO. B. CHASE,
FRANCIS E. PARKER,	GEO. W. BALDWIN,
EDWARD BANGS,	R. M. MORSE, JR.,
CHAS. W. STOREY,	LEMUEL SHAW,
THEODORE LYMAN,	HENRY VAN BRUNT,
CHAS. F. ADAMS, JR.,	WALBRIDGE A. FIELD,
J. L. STACKPOLE,	HAMILTON A. HILL.

SENATOR FESSENDEN'S REPLY.

WASHINGTON, June 25, 1868.

TO THE HONORABLE ALEXANDER H. BULLOCK, GEORGE TYLER BIGELOW, AMOS A. LAWRENCE, and others :

Gentlemen, — I beg you to accept the assurance that nothing but constant occupation in public affairs has so long delayed an answer to your communication, inviting me to meet you at a public dinner to be given in the city of Boston at such time as may suit my convenience. For that invitation, and particularly for the kind and flattering terms in which it is conveyed, you will please accept my grateful acknowledgments.

It would be affectation to conceal the very great satisfaction which this marked expression of regard and confidence from gentlemen so distinguished in their several walks of life has afforded me ; and if I find myself compelled by considerations of a public and private nature to decline your invitation, be assured, gentlemen, that it has impressed me deeply, and that I estimate your kindness and the honor it confers at their true value.

The present session of Congress will probably extend far into the summer, and while it continues it will not be in my power to fix a day upon which I could meet you. The close of a session is the most important part of it, and I am unwilling to absent myself unless obliged to do so by circumstances which justify such absence. The pleasure of meeting you, great as it would be, could hardly afford the requisite justification.

I trust you will pardon me, therefore, if, while respectfully and gratefully declining your invitation, I allude to the circumstances referred to in your letter as of a somewhat "peculiar" character.

The impeachment of the President of the United

States for high crimes and misdemeanors was a most extraordinary event, and will constitute a remarkable chapter in our country's history. The conduct of the President had, almost from the commencement of his administration, been such as to render him obnoxious to the suspicion of designing to defeat the cherished objects of those who elected him, and of plunging the country back into a condition which they considered to be little better than that from which it had recently been rescued at so vast a sacrifice. Having confidently and fondly looked forward to the second term of President Lincoln to consummate the great work of complete and peaceful restoration upon a broad and durable basis, it was not only humiliating to them, but irritating in the extreme, to find in his successor an adversary and a stumbling-block. Such a state of affairs called for an amount of patience not to be reasonably expected from men who had set their hearts upon the accomplishment of a great purpose, for which they had long and earnestly toiled, and, but for this unlooked-for obstruction, seemed to have won.

In the state of public feeling aroused by this condition of affairs, an opportunity of removing such an obstacle to their hopes by constitutional means seemed to present itself, and was seized with avidity. I do not wonder that the idea of impeachment was popular, nor did it surprise me that, under such circumstances, but few could stop to consider that the long catalogue of the President's alleged offenses prior to the removal of Mr. Stanton had, for the most part, been under investigation by a learned and able committee of the House, and had been reported upon, and that the House, by a very large majority, had voted against impeachment for those offenses; and, accordingly, with the exception of the charge in the tenth article, which was also prior in date,

they made no part of the allegations against him upon which he was finally tried. Again, by the public at large it was taken for granted that in the removal of Mr. Stanton the President had violated a law passed expressly with a view to protect that officer against removal, unless with the advice and consent of the Senate. Laboring under the strong impressions produced by disappointment and anger at the President's policy and conduct, the belief that he was on trial for all his acts of omission and commission, and the fixed opinion that he willfully violated an act of Congress, it is not strange that the great majority of those who elected Mr. Johnson could see no reason why he should not be at once removed from office, nor any good excuse for hesitation to pronounce his sentence.

Nor was this all. As the trial proceeded it became doubtful whether the result so much desired would be accomplished; the public feeling, already excited, was artfully and industriously aggravated through the press by appeals to party interests and party prejudice. It was assumed that the trial could have but one honest termination; that the case was too clear for argument; that the existence of the Republican party was staked upon the issue, and that consequently every senator belonging to that party who should hesitate to convict must necessarily be false to his principles, controlled by base if not criminal influences, and a deserter of his flag. Recourse was accordingly had to the most powerful enginery of party. The air was filled with lying rumors which found their way to the public ear through the appropriate channels. Denunciations, vituperation, calumny, threats of personal violence and of lifelong infamy, were profusely hurled at all who might dare to disobey the public sentiment. The most direful consequences were predicted in case impeachment should fail. Union men, white and colored, were to

be driven from their homes and all the horrors of another revolution, bloodier than the first, were to be let loose upon our devoted land.

It is not to be wondered at, that appliances like these should have excited the public mind almost to frenzy. The men who resorted to them were accustomed to the use of such weapons and knew well how to wield them. Unscrupulous, familiar with detraction, believers neither in public nor private virtue, or if believers, considering both as out of place in politics, they could not resist such an opportunity nor fail to improve the occasion.

The excitement elsewhere, however, was trifling when compared with that which prevailed at the Capitol. Here a change of administration had long been contemplated and was now counted on as a certainty. That looked-for change had its usual attendants—the coming in of a new President could hardly have warmed into life a more numerous brood of expectants or stimulated more extensive hopes of honors and profits. The city was filled with men ready to jump into places to be made vacant, as they hoped and believed, for their benefit. Gamblers thronged the saloons, staking more than they were able to pay upon conviction and acquittal. As these hopes rose and fell with the rumors of the hour, as impeachment stock went up or down upon the political exchange among the crowd of hungry expectants, so, for the time, rose and fell the character and reputation of those senators upon whose votes the result was supposed to depend, while the telegraph was at hand to carry over its wires to the homes and friends of those senators every calumny which disappointed ambition could imagine, or cupidity and malignity could invent, and while a portion of the press, claiming for itself a character for decency and even Christian virtue, stood ready to indorse and circulate the lie. What effect such

a condition of things might have had upon the conclusions of senators it is not easy to determine. The result has shown that in the estimation of that portion of the public which I have attempted to delineate it was of little consequence what the opinions of senators might be upon particular questions, so that conviction and removal were secured. The immediate cause of impeachment, and the main article upon which it was founded, was the removal of the Secretary of War. Two honorable and learned senators not included in the "seven" announced their opinions that the President was not guilty upon this article, and it was not considered in them even an error of judgment, much less a betrayal of party, so long as they were able to vote for conviction upon the eleventh. Other senators in their opinions declared themselves unable to sustain the fourth, fifth, sixth, seventh, ninth, and tenth. No articles could be found which would secure the votes of thirty-five senators except the second, third, and eleventh. And yet the political orthodoxy of senators was saved by a vote for conviction upon something. To all such the full right of independent judgment was fully conceded, while such as claimed and exercised the same right upon *all* the articles were unsparingly denounced as traitors and proclaimed infamous in advance, by a manager who had substantially declared in the House that without the eleventh article the whole were good for nothing.

You will readily perceive, gentlemen, that a state of opinion and feeling throughout the country, such as I have described, was not favorable to a calm and impartial judgment. Senators could not but see and feel that any vote other than for conviction would expose them to a storm of popular indignation which, however unjust, is hard to be borne and slow to be appeased. Nevertheless, experience has shown that there are occasions in the life of most

public men when to breast such a storm becomes a simple act of duty. There may be cases in which party loses its claim upon the representative; when party objects and party advantages must be subordinated to high considerations of the public good; in which every individual must judge for himself, and cannot regulate either his opinions or his action by the wishes of those who elected him to office, being responsible of course to that popular judgment which will scan his motives and eventually decide whether he has acted as becomes an honest and upright servant of the people.

It seemed to me that this trial of the President was from its very nature eminently one of those occasions. The officer impeached was the elected chief magistrate of the nation. He was arraigned upon specific charges. Although the offenses specified were political, the proceeding itself I could not but regard as of a judicial character. The constitution of the tribunal, the oath imposed upon its members, impressed me with the belief that in coming to a conclusion I was bound to lay aside, so far as possible, all prejudice against the individual, and to try him solely upon the law and the facts applicable to the crimes and misdemeanors charged in the articles. In this great and most important proceeding the people themselves were prosecutors before a tribunal of their own selection. The members were, to be sure, servants of the people, responsible to them, but only as judges are, for an honest decision of the case submitted; all the attempts to coerce a decision by outside pressure, by appeals to party obligations or party necessity, by public meetings, by threats and vituperation, were in my opinion as essentially wrong as if applied to any case of private right before any court in the land, and were in their nature subversive alike of justice and of public and private morality.

Entertaining these views, gentlemen, I was of the opinion that, in coming to a conclusion upon the articles of impeachment against the President, I must base the question of guilt or innocence upon those articles and those alone; and further, that, acting in a judicial capacity, it was my duty to decide according to my own deliberate judgment upon the case presented; that although the questions involved were, in a general sense, of a political, they were in no sense of a party, character; that party newspapers and party meetings had no right to dictate, and I ought not to allow them to influence my decision; that I was bound to disregard all external influences and all attempts to control my judgment by appeals of a party nature addressed either to my hopes or fears. In a word, I considered the matter entirely beyond and above party jurisdiction.

The conclusion at which I arrived is well known to you. My reasons are before the country, and I do not desire to repeat them. All I claim for them is that in common justice they may be believed to be my true reasons. For them and for the vote I gave I offer no excuse or apology, and ask no vindication; nor do I consider myself entitled to any especial credit for courage or conscientiousness in the discharge of what I considered an imperative duty. I could not, it is true, shut my eyes to the fact that by voting to acquit the President I should disappoint the hopes of those who honestly desired his conviction, and expose myself to severe animadversion from long tried and highly valued friends, and the great mass of that party for the success of which I had earnestly and faithfully labored. All this was exceedingly painful to contemplate, for a man in public life does not willingly place himself in antagonism with his political friends, or hazard the loss of popular favor. Nevertheless, it did seem to me that

considerations like these were not to be taken into the account. One thing the people had a right to demand of me before and above all others, to wit, that in discharging the great trust they had committed to my hands, I should shrink from no responsibility which that trust imposed, and allow no coward fears of personal consequences to lead me astray from the path of official duty, and I flattered — perhaps deluded — myself with the hope that the testimony of a life including more than fourteen years of consecutive public service would protect me against the vile calumnies of those who sought and affected to find for a course of action by which I could gain nothing and might lose much, motives criminal or mean. This hope was founded on a belief in the intelligence and candor of the American people, who seldom fail eventually to justify those who serve them faithfully. I am proud and happy to acknowledge that you, gentlemen, have strengthened and confirmed that confidence.

You do not, I am sure, overrate the importance of preserving and supporting judicial independence and judicial integrity. Permit me to say that legislative independence is of equal value; not that independence which defies the popular will, or disregards public opinions, but that which prefers a consciousness of integrity to popular applause. In our country, the inducements to sacrifice the right to the expedient, especially in party questions, are sufficiently strong to preclude all reasonable apprehensions of a willful disregard of constituencies. It is easy and pleasant to float with the current. It may not always be pleasant to reflect that by so doing a bad precedent has been established, or a blow struck, the evil consequences of which may be felt in all future time.

Especially in questions involving great principles affecting the framework of government itself, it is of the

last importance that no sacrifice be made to mere temporary expediency. There are periods in the history of all governments when great danger arises from this source, and all wise rulers will carefully guard against such dangers. I regard the present as one of those periods in our history. But as in the recent conflict of arms, the patriotic devotion and energy of our people carried them safely and triumphantly through, so now, I trust and believe, their calmness and moderation in the exercise of political power will finally soften all the asperities and smooth the troubled waters of civil strife.

Again thanking you, gentlemen, for the compliment tendered me, and the more for coupling an honor to myself with your desire to recognize and vindicate an important principle, and trusting that I may hereafter at no distant period have the pleasure of meeting you on some less formal occasion,

I have the honor to be most respectfully yours,

W. P. FESSENDEN.

Impeachment was over, but throughout the month of June it was still uppermost in the minds of those connected with it. Those who were looking to President Wade for office disappeared. The bettors paid or received their money and the losers denounced "the seven recreants." More than ever was Mr. Fessenden abused as a conservative, though no Republican senator had acted more straight with his party even while disapproving some of its extreme measures. It was not until he opposed the first impeachment schemes that the radicals styled him conservative. They ascribed to him the motive of obtaining offices for his friends from the President, forgetting that the President had no patronage left, and was also checkmated by the Senate. Towards the last of June

things settled down into their old fashion. Sensible people began to see the folly of being led by Stevens and Butler. Those who remained angry were men for whom nobody cared. Mr. Fessenden said the thought that he had rendered a service to his country made up for the loss of popular favor. Singularly enough, he received less marks of kindness from Portland than from other places, and was meanly assailed in the leading Republican paper of his own town. The generous course of the Boston gentlemen was in sharp contrast with this treatment. Even the Republican State Convention, held at this time, had not the courage to condemn the attacks upon him and express its confidence. The most it could do was to remain silent.

Thirty opinions were filed by the senators, and, in order that this history may completely show the divergent views which the senators held upon the question involved, attention is called to them. Senator Fessenden's is as follows : —

OPINION OF MR. SENATOR FESSENDEN.

The House of Representatives have, under the Constitution of the United States, presented to the Senate eleven distinct articles of impeachment for high crimes and misdemeanors against the President. Each senator has solemnly sworn, as required by the Constitution, to "do impartial justice, according to the Constitution and the laws," upon the trial. It needs no argument to show that the President is on trial for the specific offenses charged, and for none other. It would be contrary to every principle of justice, to the clearest dictates of right, to try and condemn any man, however guilty he may be thought, for an offense not charged, of which no notice has been given to him, and against which he has had no opportu-

nity to defend himself. The question then is, as proposed to every senator, sitting as a judge, and sworn to do impartial justice, "Is the President guilty or not guilty of a high crime or misdemeanor, as charged in all or either of the articles exhibited against him?"

The first article of the series substantially charges the President with having attempted to remove Edwin M. Stanton from the office of Secretary of War, — which he rightfully held, — in violation of law and of the Constitution of the United States. Granting that an illegal and unconstitutional attempt to remove Mr. Stanton in the manner alleged in the article, whether successful or not, is a high misdemeanor in office, the first obvious inquiry presents itself, whether under the Constitution and the laws the President had or had not a right to remove that officer at the time such attempt was made, the Senate being then in session. To answer this inquiry it is necessary to examine the several provisions of the Constitution bearing upon the question, and the laws of Congress applicable thereto, together with the practice, if any, which has prevailed since the formation of the government upon the subject of removals from office.

The provisions of the Constitution applicable to the question are very few. They are as follows: —

"Article II, section 1. The executive power shall be vested in a President of the United States of America."

"Article II, section 2. He, (the President) . . . shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law."

Same section. "The President shall have power to fill

up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

"Article II, section 4. The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

The whole question of removals from office came under the consideration of the first Congress assembled after the adoption of the Constitution, and was much discussed by the able men of that day, among whom were several who took a prominent part in framing that instrument. It was noticed by them that the only provision which touched in express terms upon the subject of removals from office was found in the clause which related to impeachment; and it was contended that, consequently, there was no other mode of removal. This idea, however, found no favor at that time, and seems never since to be entertained. It is quite obvious that as such a construction would lead to a life tenure of office, a supposition at war with the nature of our government, and must of necessity involve insuperable difficulties in the conduct of affairs, it could not be entertained. But it was equally obvious that a power of removal must be found somewhere, and as it was not expressly given in the impeachment clause, it must exist among the implied powers of the Constitution. It was conceded by all to be in its nature an executive power; and while some, and among them Mr. Madison, contended that it belonged to the President alone, because he alone was vested with the executive power, and, from the nature of his obligations to execute the law and to defend the Constitution, ought to have the control of his subordinates, others thought that as he could only appoint officers "by and with the advice and consent of the

Senate," the same advice and consent should be required to authorize their removal. The first of these constructions finally prevailed, as those who have read the debates of that period well know. This was understood and avowed at the time to be a legislative construction of the Constitution, by which the power of removal from office was recognized as exclusively vested in the President. Whether right or wrong or wise or unwise, such was the decision, and several laws were immediately enacted in terms recognizing this construction of the Constitution.

The debate referred to arose upon a bill for establishing what is known as the Department of State. And in accordance with the decision of that first Congress, the right and power of the President to remove the chief officer of that department was expressly recognized in the second section, as follows:—

21 P. Fol. iii. "Sec. 2. And be it further enacted, That there shall be in the said department an inferior officer," etc., "*who, whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy, shall, during such vacancy, have the charge,*" etc. Act approved July 27, 1789.

The same provision is found *in totidem verbis* in the act establishing the Department of War, approved August 7, 1789; and terms equally definite are found in the act to establish the Treasury Department, approved September 2, 1789. These several acts have continued in force to the present day; and although the correctness of the legislative construction then established has more than once been questioned by eminent statesmen since that early period, yet it has been uniformly recognized in practice; so long and so uniformly as to give it the force of constitutional authority. A striking illustration

of this practical construction arose in the administration of John Adams, who, when the Senate was in session, removed Mr. Pickering from the office of Secretary of State without asking the advice and consent of the Senate, nominating to that body for appointment on the same day, John Marshall, in the place of Timothy Pickering, *removed*. No question seems to have been made at the time of this exercise of power. The form of all commissions issued to the heads of departments and to other officers whose tenure was not limited by statute has been "during the pleasure of the President, for the time being." And the right to remove has been exercised without restraint, as well upon officers who were appointed for a definite term as upon those who held during the pleasure of the President.

It has been argued that even if this right of removal by the President may be supposed to exist during the recess of the Senate, it is otherwise when that body is in session. I am unable to perceive the grounds of this distinction, or to find any proof that it has been recognized in practice. The Constitution makes no such distinction, as it says nothing of removal in either of the clauses making distinct provisions for appointment in recess and during the session. Probably this idea had its origin in the fact that in recess the President could appoint for a definite period without the advice and consent of the Senate, while in the other case no appointment could be made without that advice and consent. It has been uniformly held that a vacancy occurring in time of a session can only be filled during session by and with the advice and consent of the Senate, and cannot be lawfully filled during recess. But I am not aware that the President's power of removal during the session has ever been seriously questioned while I have been a member of the

Senate. The custom has undoubtedly been to make the nomination of a successor the first step in a removal, so that the two acts were substantially one and the same. But instances have not unfrequently occurred during session where the President thought it proper to remove an officer at once, before sending the name of his successor to the Senate. And during my time of service, previous to the passage of the Act of March 2, 1867, I never heard his right to do so seriously questioned. The passage of that act is, indeed, in itself an admission that such were understood to be the law and the practice.

I will not attempt to discuss the question here whether the construction of the Constitution thus early adopted is sound or unsound. Probably it was thought that while the restraining power of the Senate over appointments was a sufficient protection against the danger of executive usurpation from this source, the President's responsibility for the execution of the laws required a prompt and vigorous check upon his subordinates. Judging from the short experience we have had under the act of March 2, 1867, the supervising power of the Senate over removals is poorly calculated to secure a prompt and vigorous correction of abuses in office, especially upon the modern claim that where offices are of a local character the representative has a right to designate the officers; under which claim this branch of executive authority, instead of being lodged where the Constitution placed it, passes to one of the legislative branches of the government.

Such as I have described was a legislative construction of the Constitution on the subject of removals from office and the practice under it, and such was the statute establishing the Department of War, distinctly recognizing the President's power to remove the principal officer of that department at pleasure, down to the passage of the

act regulating the tenure of certain civil offices, which became a law March 2, 1867. Although that act did not receive my vote originally, I did vote to overrule the President's veto, because I was not then, and am not now, convinced of its unconstitutionality, although I did doubt its expediency, and feared that it would be productive of more evil than good. This is not the occasion, however, to criticise the act itself. The proper inquiry is, whether the President, in removing, or attempting to remove, Mr. Stanton from the office of Secretary of War, violated its provisions; or, in other words, whether, if the President had a legal right to remove Mr. Stanton, before the passage of that act, as I think he clearly had, he was deprived of that right by the terms of the act itself. The answer to this question must depend upon the legal construction of the first section, which reads as follows, viz.:

“Be it enacted, etc., that every person holding any civil office, to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, *except as herein otherwise provided*: Provided, that the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster-general, and the Attorney-general shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate.”

In considering how far these provisions apply to the case of Mr. Stanton, the state of existing facts must be carefully borne in mind.

Mr. Stanton was appointed by President Lincoln during

his first term, which expired on the 4th of March, A. D. 1865. By the terms of his commission, he was to hold "during the pleasure of the President for the time being." President Lincoln took the oath of office, and commenced his second term on the same 4th day of March, and expired on the 15th day of the succeeding April. Mr. Johnson took the oath of office as President on the day of the death of President Lincoln. Mr. Stanton was not reappointed Secretary of War by either, but continued to hold under his original commission, not having been removed. How, under these circumstances, did the act of March 2, 1867, affect him?

A preliminary question as to the character under which Mr. Johnson administered the office of President is worthy of consideration, and may have a material bearing.

The fifth clause of section 1, article II of the Constitution provides as follows, viz.: In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve upon the Vice-President."

What shall devolve upon the Vice-President? The powers and duties of the office simply, or the office itself? Some light is thrown upon this question by the remainder of the same clause, making provision for the death, etc., of both the President and Vice-President, enabling Congress to provide by law for such a contingency, as to declare "what officer shall *act as president*," and that "such officer shall *act accordingly*" — a very striking change of phraseology. The question has, however, in two previous instances received a practical construction. In the case of Mr. Tyler, and again in that of Mr. Fillmore, the Vice-President took the oath as President, assumed the name and designation, and was recognized as constitutionally President of the United States, with

the universal assent and consent of the nation. Each was fully recognized and acknowledged to be President, as fully and completely, and to all intents, as if elected to that office.

Mr. Johnson then became *President*. Did he have a term of office? Was he merely the tenant or holder of the term of another, and that other his predecessor, President Lincoln? Did Mr. Lincoln's term continue after his death, as has been argued? It is quite manifest that two persons cannot be said to have one and the same term of the presidency at the same time. If it was Mr. Lincoln's term, it was not Mr. Johnson's. If it was Mr. Johnson's, it was not Mr. Lincoln's. If Mr. Johnson had no term, when do the secretaries appointed by him go out of office, under the act of March 2, 1867? When does the one month after "the expiration of the term of the President by whom *they* have been appointed" expire? A President without a term of office would, under our system, be a singular anomaly, and yet to such a result does this argument lead. I am unable to give my assent to such a proposition.

If Mr. Stanton was legally entitled to hold the office of Secretary of War on the 21st of February, 1868, as averred in the first article, he must have been so entitled by virtue of his original appointment by President Lincoln, for he had received no other appointment. If the act of March 2, 1867, terminated his office, he must, to be legally in office on the 21st of February, 1868, have been again appointed and confirmed by the Senate. He must, therefore, be assumed to have held under the commission by the terms of which he held "during the pleasure of the President for the time being." After the death of President Lincoln, then, he held at the pleasure of President Johnson, by his permission, up to the passage

of the act of March 2, 1867, and might have been removed by him at any time. Did that act change his tenure of office without a new appointment, and transform what was before a tenure at will into a tenure for a fixed period? Granting that this could legally be done by an act of Congress, which may well be questioned, the answer to this inquiry must depend upon the terms of the act itself. Let us examine it.

It is obvious to my mind that the intention was to provide for two classes of officers; one, the heads of departments, and the other comprising all other officers, appointed by and with the advice and consent of the Senate. The act provides a distinct tenure for each of these classes; for the heads of departments a fixed term, ending in one month after the expiration of the term of the President by whom they were appointed; for all others, an indefinite term, ending when a successor shall have been appointed and duly qualified. These two provisions are wholly unlike each other. Both are intended to apply to the present and the future, and to include all who may come within their scope. Does Mr. Stanton, by any fair construction, come within either? How can he be included in the general clause, when the Secretary of War is expressly excepted from its operation? The language is: "Every person holding any civil office, etc., shall be entitled to hold such office, . . . *except as herein otherwise provided.*" Then follows the proviso, in which the Secretary of War is specifically designated, and by which another and a different tenure is provided for the Secretary of War. Surely it would be violating every rule of construction to hold that either an office or an individual expressly excluded from the operation of a law can be subject to its provisions.

Again, does Mr. Stanton come within the proviso?

What is the term therein fixed and established for the Secretary of War? Specifically, the term of the President by whom he was appointed, and one month thereafter. *He* was appointed by President Lincoln, and the term of President Lincoln existing at the time of his appointment expired on the 4th of March, 1865. Can any one doubt that had a law been in existence on that day similar to that of March 2, 1867, Mr. Stanton would have gone out of office in one month thereafter? The two terms of Mr. Lincoln were as distinct as if held by different persons. Had he been then reappointed by Mr. Lincoln, and confirmed, and a law similar to that of March 2, 1867, been then in existence, is it not equally clear that he would have again gone out of office in one month after the expiration of Mr. Lincoln's second term? If so, the only question would have been whether Mr. Lincoln's term expired with him, or continued, notwithstanding his death, until the 4th day of March, 1869, although he could no longer hold and execute the office, and although his successor, elected and qualified according to all the forms of the Constitution, was, in fact and in law, President of the United States. How could all that be, and yet that successor be held to have no term at all? To my apprehension, such a construction of the law is more and worse than untenable.

The word "term" as used in the proviso, when considered in connection with the obvious design to allow each person holding the presidential office the choice of his own confidential advisers, must, I think, refer to the period of actual service. Any other construction might lead to strange conclusions. For instance, suppose a President and Vice-President should both die within the first year of the term for which they were elected. As the law now stands, a new election must be held within thirty-

four days preceding the first Wednesday of December then next ensuing. A new term of four years would commence with the inauguration of the new President before the term for which the preceding President was elected had expired. Do the heads of departments appointed by that preceding President hold their offices for three years of the term of the new President and until one month after the expiration of the term for which such preceding President was elected? Such would be the consequences of giving to the word "term" any other meaning than the term of actual service. It must be evident, therefore, that the word "term" of the President, as used in the proviso, is inseparable from the individual, and dies with him.

If I am right in this conclusion, Mr. Stanton, as Secretary of War, comes neither within the body of the section, nor within the proviso, unless he can be considered as having been *appointed* by Mr. Johnson.

Words used in a statute must, by rules of construction, be taken and understood in their ordinary meaning, unless a contrary intention clearly appears. As used in the Constitution, *appointment* implies a designation — an act. And with regard to certain offices, including the Secretary of War, it implies a nomination to the Senate and a confirmation by that body. A Secretary of War can be *appointed* in no other manner. This is the legal meaning of the word "appointed." Is there any evidence in the act itself that the word "appointed," as used in the proviso, was intended to have any other meaning? The same word occurs three times in the body of the section, and in each case of its use evidently has its ordinary constitutional and legal signification. There is nothing whatever to show that it had, or was intended to have, any other sense when used in the proviso. If so, then it cannot be contended that Mr. Stanton was ever appointed Secretary of War by

Mr. Johnson, and he cannot, therefore, be considered as included in the proviso. The result is, that he is excluded from the general provision because expressly excepted from its operation, and from the proviso by not coming within the terms of description.

It not unfrequently happens, as every lawyer is aware, that a statute fails to accomplish all the purposes of those who penned it, from an inaccurate use of language, or an imperfect description. This may be the case here. But when it is considered that this proviso was drawn and adopted by eminent lawyers, accustomed to legal phraseology, who perfectly well knew and understood the position in which certain members of Mr. Johnson's cabinet stood, not appointed by him, but only suffered to remain in office under their original commissions from President Lincoln; and when it is further considered that the object of that proviso was to secure to each President the right of selecting his own cabinet officers, it is difficult to suppose the intention not to have been to leave those officers who had been appointed by President Lincoln to hold under their original commissions, and to be removable at pleasure. Had they intended otherwise, it was easy so to provide. That they did not do so is in accordance with the explanation given when the proviso was reported to the Senate, and which was received with unanimous acquiescence.

It has been argued that Mr. Johnson has recognized Mr. Stanton as coming within the first section of the act of March 2, 1867, by suspending him under the provisions of the second section. Even if the President did so believe, it by no means follows that he is guilty of a misdemeanor in attempting to remove him, if that view was erroneous. The President is not impeached for acting contrary to his belief, but for violating the Constitution

and the law. And it may be replied that, if the President did entertain that opinion, testimony was offered to show that his Cabinet entertained a different view. Whatever respect the opinion of either may be entitled to, it does not settle the question of construction. But a sufficient answer to the argument is that, whether Mr. Stanton comes within the first section of the statute or not, the President had a clear right to suspend him under the second section. That section applies to all civil officers, except judges of the United States courts, "appointed as aforesaid;" and that is, "by and with the advice and consent of the Senate;" and Mr. Stanton was such an officer, whatever might have been his tenure of office. The same remark applies to the eighth section, in relation to the designation of General Thomas. That section covers every "person" designated to perform the duties of any office, without the advice and consent of the Senate. Both of these sections are general in their terms and cover all persons coming within their purview, whether included in the first section or not.

I conclude, then, as Mr. Stanton was appointed to hold "during the pleasure of the President for the time being," and his tenure was not affected by the act of March 2, 1867, the President had a right to remove him from office on the 21st of February, 1868, and, consequently, cannot be held guilty under the first article.

Even, however, if I were not satisfied of the construction given herein of the act of March 2, 1867, I should still hesitate to convict the President of a high misdemeanor for what was done by him on the 21st of February. The least that could be said of the application of the first section of that act to the case of Mr. Stanton is that its application is doubtful. If, in fact, Mr. Stanton comes within it, the act done by the President did not

remove him, and he is still Secretary of War. It was, at most, an attempt on the part of the President which he might well believe he had a right to make. The evidence utterly fails to show any design on the part of the President to effect his purpose by force or violence. It was but the simple issuance of a written order, which failed of its intended effect. To depose the constitutional chief magistrate of a great nation, elected by the people, on grounds so slight, would, in my judgment, be an abuse of the power conferred upon the Senate, which could not be justified to the country or the world. To construe such an act as a high misdemeanor, within the meaning of the Constitution, would, when the passions of the hour have had time to cool, be looked upon with wonder, if not with derision. Worse than this, it would inflict a wound upon the very structure of our government, which time would fail to cure, and which might eventually destroy it.

It may be further remarked that the President is not charged in the first article with any offense punishable, or even prohibited, by statute. The *removal* of an officer contrary to the provisions of the act of March, 2, 1867, is punishable, under the sixth section, as a high misdemeanor. The *attempt* so to remove is not declared to be an offense. The charge is, that the President issued the order of February 21, 1868, *with intent* to violate the act, by removing Mr. Stanton. If, therefore, this attempt is adjudged to be a high misdemeanor, it must be so adjudged, not because the President has violated any law or constitutional provision, but because, in the judgment of the Senate, the attempt to violate the law is in itself such a misdemeanor as was contemplated by the Constitution and justifies the removal of the President from his high office.

The second article is founded upon the letter of authority addressed by the President to General Lorenzo Thomas,

dated February 21, 1868. The substantial allegations of the article are that this letter was issued in violation of the Constitution and contrary to the provisions of the "Act regulating the tenure of certain civil officers," without the advice and consent of the Senate, that body being then in session; and without the authority of law, there being at the time *no vacancy* in the office of the Secretary of War.

In the view I have taken of the first article, there was legally a vacancy in the Department of War, Mr. Stanton having been removed on that same day, and the letter of authority states the fact, and is predicated thereon. It is a well-established principle of law that where two acts are done at the same time, one of which in its nature precedes the other, they must be held as intended to take effect in their natural order. The question then is, whether, a vacancy existing, the President had a legal right to fill it by a designation of some person to act temporarily as Secretary *ad interim*. The answer to this question will depend, to a great extent, upon an examination of the statutes.

The first provision of statute law upon this subject is found in section eight of an act approved May 8, 1792, entitled "An act making alterations in the Treasury and War Departments."

That section empowers the President, "in case of the death, *absence from the seat of government, or sickness,* . . . of the Secretaries of State, War, or the Treasury, or of any officer of either of said departments, whose appointment is not in the head thereof, in case he shall think it necessary, to *authorize* any person or persons at his discretion, to perform the duties of the said respective offices until a successor be appointed, or such absence or inability by sickness may cease."

It will be noticed that this act provides for one case of vacancy and two of temporary disability, making the same provision for each case. In neither case does it require any consent of the Senate or make any allusion to the question whether it is or is not in session. It is viewed as a mere temporary arrangement in each case, and fixes no specific limit of time to the exercise of authority thus conferred. Nor does it restrict the President in his choice of a person to whom he may confide such a trust.

By an act approved February 13, 1795, chapter xxi, to amend the act before cited, it is provided "that *in case of vacancy*" in either of the several Departments of State, War, or the Treasury, or of any officer of either, etc., "it shall be lawful for the President, . . . in case he shall think it necessary, to *authorize* any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed, or such vacancy be filled, provided that no one vacancy shall be supplied in manner aforesaid for a longer term than six months."

This act, it will be observed, applies only to vacancies, and does not touch temporary disabilities, leaving the latter to stand as before, under the act of 1792. It still leaves to the President his choice of the person, without restrictions, to supply a vacancy, and while it provides for all vacancies arising from whatever cause, like the law of 1792, it makes no allusion to the Senate, or to whether or not that body is in session. But this act differs from its predecessor in this, that it specifically limits the time during which any one vacancy can be supplied to six months.

Thus stood the law down to the passage of the act of February 20, 1863. (Stat. at Large, vol. 12, page 656.) In the mean time, four other departments had been created,

to neither of which were the provisions before cited applicable. And yet it appears from the record that almost every President in office since the creation of those departments had, in repeated instances, exercised the same power and authority in supplying temporary vacancies and disabilities in the new departments which he was authorized to exercise in those originally created, without objection, and even without remark.

The act of February 20, 1863, provides "that in case of the death, resignation, absence from the seat of government, or sickness of the head of any executive department, or of any officer of either of said departments," etc., "it shall be lawful for the President . . . to *authorize* the head of any other executive department, or other officer in either of said departments whose appointment is vested in the President . . . to perform the duties . . . until a successor be appointed, or until such absence or disability shall cease; *provided*, that no one vacancy shall be supplied in manner aforesaid for a longer term than six months." Section two repeals all acts or parts of acts inconsistent, etc.

This act, it will be observed, covers, in terms, the cases provided for in the act of 1792, and one more, — a vacancy by *resignation*. It limits the range of selection, by confining it to certain specified classes of persons. It limits the time for which any *vacancy* may be supplied to six months, and it extends the power of so supplying vacancies and temporary absence and disability to all the departments. Clearly, therefore, it repeals the act of 1792, covering all the cases therein enumerated, and being in several important particulars inconsistent with it. There was nothing left for the act of 1792 which was not regulated and controlled by the act of 1863.

How was it with the act of 1795? That act covered

all cases of vacancy. Had it repealed the prior act of 1792? It had applied the limitation of six months for any one *vacancy* and to that extent was inconsistent with the act of 1792, so far as a vacancy by death was concerned. But it left the cases of sickness and absence untouched. The power conferred by the act of 1792 in those cases remained, and was exercised, without question, in a multitude of cases, by all the presidents down to the passage of the act of 1863.

In like manner, the act of 1863, while it took out of the operation of the act of 1795 the case of vacancy by resignation, and made a new provision for it, left untouched vacancies by removal and by expiration of a limited tenure of office. Suppose the act of 1863 had provided in terms for only the two cases of absence and sickness specified in the act of 1792, will it be contended that in such a case the power conferred in that act in case of death would have been repealed by the act of 1863? If not, by parity of reason the enumeration of a vacancy by *resignation* in the act of 1863 would extend no further than to take that case out of the act of 1795, leaving the cases for removal and expiration of term still subject to its operation. The conclusion, therefore, is that whatever power the President had by the act of 1795, to appoint any person *ad interim*, in case of removal, remains unaffected by the act of 1863.

It has been argued that the authority vested in the President by the act of 1795 is repealed by the sixth section of the act of March 2, 1867, which prohibits and punishes "the making, signing, sealing, countersigning, or issuing of any commission, or *letter of authority*, for or in respect to any such appointment or employment." If the act of 1795 is repealed by this section, it must operate in like manner upon the act of 1863. The conse-

quence would be that in no case, neither in recess nor in session, neither in case of vacancy, however arising, absence or sickness, would the President have power, even for a day, to authorize any person to discharge the duties of any office, in any of the departments which is filled by presidential appointment. All must remain as they are and all business must stop, during session or in recess, until they can be filled by legal appointment. This could not have been intended. The words above cited from the sixth section of the act of 1867 are qualified by the words "contrary to the provisions of this act." The language is "commission or letter of authority for or in respect to any *such* appointment or employment;" to wit, a "removal, appointment, or employment made, had, or exercised contrary to the provisions of this act." If, therefore, the removal is not contrary to the act, neither is the designation of a person to discharge the duties temporarily, and a letter of authority issued in such a case is not prohibited.

In confirmation of this view, it will be noticed that the eighth section of the act of March 2, 1867, expressly recognizes the power of the President, "without the advice and consent of the Senate," to "designate, authorize, or employ" persons to perform the duties of certain offices temporarily, thus confirming the authority conferred by the preceding acts.

My conclusion, therefore, is, that as the President had a legal right to remove Mr. Stanton, notwithstanding the act of March 2, 1867, he had a right to issue the letter of authority to General Thomas to discharge the duties of the Department of War, under and by virtue of the act of 1795.

It has been urged, however, that the six months' limitation in the act of 1795 had expired before the 21st of

February, 1868, in consequence of the appointment of General Grant as Secretary of War *ad interim* on the 12th day of August, 1867. I am unable to see the force of this argument. Whatever may have been the opinion of the President as to his power of suspending an officer under the Constitution (and I am of the opinion that he had no such power), he clearly had the right to suspend Mr. Stanton under the second section of the act of March 2, 1867, and must be held in law to have acted by virtue of the lawful authority thereby conferred; more especially as he saw fit to conform in all respects to its provisions. The action of the Senate upon that suspension restored Mr. Stanton to his office of Secretary of War. This suspension cannot be considered as a removal, and the subsequent removal on the 21st of February created a vacancy in the office from that date. The designation of General Thomas cannot, therefore, be considered as a continuation of the original designation of General Grant on the 12th day of August, 1867.

But even if I am wrong in this conclusion, and the President had no power by existing laws to appoint a Secretary of War *ad interim*, yet, if Mr. Stanton did not come within the first section of the act of 1867, the second article fails. The gravamen of that article is the violation of the Constitution and the act of March 2, 1867, by issuing the letter of authority with intent to violate the Constitution, etc., "there being no vacancy in the office of the Secretary of War." If a legal vacancy existed, the material part of the accusation is gone. A letter of authority, such as that issued to Thomas, is in no sense an appointment to office as understood by the Constitution. If it be, then the power to issue such a letter in any case without the assent of the Senate cannot be conferred by Congress. If it be, the acts of 1792, 1795,

and 1863 are unconstitutional. The sixth section of the act of March 2, 1867, recognizes the distinction between an appointment and a letter of authority. The practice has been frequent and unbroken, both with and without the authority of statute law, to issue letters of authority in cases of vacancy and temporary disability, almost from the formation of the government. It has been called for by the necessity of always having some one at the head of a department. There is no law prohibiting such a designation in case of a vacancy in a department. If the President had no authority to issue the letter in this individual case, it was, at most, a paper having no force and conferring no power. It was no violation either of the Constitution or the law. The fact that on the very next day a nomination was actually sent to the Senate, though, as the Senate had adjourned, it was not communicated until the succeeding day, goes to show that there might have been no design to give anything but the most temporary character to the appointment. To hold that an act of such a character, prohibited by no law, having the sanction of long practice, necessary for the transaction of business, and which the President might well be justified in believing authorized by existing law, was a high misdemeanor, justifying the removal of the President of the United States from office, would, in my judgment, be, in itself, a monstrous perversion of justice, if not of itself a violation of the Constitution.

The first two articles failing, the third, fourth, fifth, sixth, seventh, and eighth must fail with them.

The third differs from the second only in the allegation that the President *appointed* Lorenzo Thomas Secretary *ad interim* without the assent of the Senate, that body being then in session and there being no vacancy in said office. The answer to this allegation is, first, it was not

an appointment requiring the assent of the Senate, but a simple authority to act temporarily; and, second, there was a legal vacancy in the office existing at the time.

Of article four it is sufficient to say that there is no evidence to sustain it. There is nothing bearing upon it except the idle vapping of Thomas himself of what he intended to do; and he testifies, under oath, that the President never authorized or suggested the use of force. What was said by Thomas was said out of doors, not to Mr. Stanton, nor communicated to him by message. The interviews between General Thomas and Mr. Stanton were of the most pacific character. The reply of Mr. Stanton when the letter of the President was delivered to him was of a nature to repel the idea of resistance, and the testimony of General Sherman shows that the President did not anticipate resistance.

It is essential to the support of this fourth article, and also of article sixth, that *intimidation and threats* should have been contemplated by the parties charged with the conspiracy, under the act of July 31, 1861. These failing, the charge fails with them in both articles.

As to the fifth and seventh articles, the attempt is made to sustain them under a law of Congress passed February 27, 1804, extending the criminal laws of Maryland over so much of the district as was part of that State. Inasmuch as the common law was, so far as it had not been changed by statute, the law of Maryland, and conspiracy a misdemeanor, the President is charged with a misdemeanor by conspiring with Thomas to do an act made unlawful by the act of March 2, 1867. This is the only interpretation which I am able, with the aid of the arguments of the managers, to place upon these articles. Granting the positions assumed as the foundation for the charges in these articles, they must fail, if the act

which the President proposed to do was a lawful act, and he did not propose to accomplish it by unlawful means. The removal of Mr. Stanton is the means proposed in order to prevent him from holding his office, as charged in the fifth, and to take and possess the property of the United States in his custody, as charged in the seventh article. The right to remove him, therefore, disposes of both articles.

Outside of any of these considerations, I have been unable to look upon either of these four articles as justifying a charge of conspiracy. The legal idea of a conspiracy is totally inapplicable to the facts proved. The President, if you please, intends to remove a person from office by an open exercise of power, against the provisions of a law, contending that he has a right to do so, notwithstanding the law, and temporarily to supply the vacancy thus created. He issues an order to that effect, and at the same time orders another person to take charge of the office, who agrees to do so. How these acts, done under a claim of right, can be tortured into a conspiracy, in the absence of any specific provision of law declaring them to be such, is beyond my comprehension.

Article eight is disposed of by what has been said on the preceding articles.

Article nine is, in my judgment, not only without proof to support it, but actually disproved by the evidence.

With regard to the tenth article, the specifications are sufficiently established by proof. They are three in number, and are extracts from speeches of the President on different occasions. It is not pretended that in speaking any of the words the President violated the Constitution, or any provision of the statute or common law, either in letter or spirit. If such utterance was a misdemeanor, it must be found in the nature of the words themselves.

I am not prepared to say that the President might not, within the meaning of the Constitution, be guilty of a misdemeanor in the use of words. Being sworn "to preserve, protect, and defend the Constitution," if he should in words persistently deny its authority, and endeavor by derisive and contemptuous language to bring it into contempt, and impair the respect and regard of the people for their form of government, he might, perhaps, justly be considered as guilty of a high misdemeanor in office. Other cases might be supposed of a like character and leading to similar results. It remains to inquire what was the character of the words proved.

Those spoken on the 18th day of August, 1866, contained nothing calculated to impair the confidence of the country in our form of government, or in our cherished institutions. They did contain severe reflections upon the conduct of a coördinate branch of the government. They were not an attack upon Congress as a branch of the government, but upon the conduct of the individuals composing the Thirty-ninth Congress. He did not speak of *Congress* generally as "hanging upon the verge of the government, as it were," but of a particular Congress, of which he spoke as assuming to be "a Congress of the United States, while in fact it is a Congress of only part of the States;" and which particular Congress he accused of encroaching upon constitutional rights, and violating the fundamental principles of government.

It may be remarked that those words were not official. They were spoken in reply to an address made to him by a committee of his fellow citizens—spoken *of* Congress and not *to* it. The words did not in terms deny that it was a constitutional Congress, or assert that it had no power to pass laws. He asserted what was true in point of fact, that it was a Congress of only a part of the States.

Granting that the words spoken would seem to imply that he had doubts, to some extent, of the true character of that Congress, and the extent of its powers, so long as several States were excluded from representation, he did not, in fact or in substance, deny its constitutional existence; while in all his official communications with that Congress he has ever treated it as a constitutional body. Is there another man in the republic, in office or out of office, who had not on that day a perfect right to say what the President said? Would any one think of punishing any member of Congress for saying out of doors precisely the same things of the body of which he was a member? Is the President alone excluded from the privileges of expressing his opinions of the constitution of a particular Congress and of denouncing its acts as encroachments upon "constitutional rights" and the "fundamental principles of government?" In process of time, there might possibly be a Congress which would be justly liable to the same criminations of a President. In such a case, is he to remain silent, and is he forbidden by the Constitution, on pain of removal from office, to warn the people of the United States of their danger?

It is not alleged that the President did not believe what he said on this occasion to be true. Whether he did or not is a question between him and his conscience. If he did, he had a perfect moral right so to speak. If he did not, his offense is against good morals, and not against any human law. There is, in my judgment, nothing in these words to prove the allegation that the President's intent in speaking them was to impair and destroy the respect of the people for the legislative power of Congress, or the laws by it duly and constitutionally enacted, or to set aside its rightful authority and powers. If the words were designed to bring that particular Con-

gress into contempt and to excite the resentment of the people against it, however much I may disapprove both words and intention, I do not think them an impeachable offense.

The remarks contained in the second and third specifications present themselves to my mind in the same light. They, too, contain severe reflections upon the Thirty-ninth Congress; nothing more. I have not been able to discover any menaces or threats against Congress, unless they are found in the declaration that he would veto their measures; and this, I think, must in fairness be taken as applying to measures of a certain character, of which he had been speaking. The speeches at Cleveland and St. Louis, though highly objectionable in style, and unbecoming a President of the United States, afford nothing to justify the allegation that they were menacing towards Congress or to the laws of the country. To consider their utterance a high misdemeanor, within the meaning of the Constitution, would, in my view, be entirely without justification.

So highly did the people of this country estimate the importance of liberty of speech to a free people, that, not finding it to be specifically guaranteed in the Constitution, they provided for it in the first amendment to that instrument. "Congress shall make no law . . . abridging the freedom of speech." Undoubtedly there are great inconveniences, and perhaps positive evils, arising from the too frequent abuse of that freedom; more, perhaps, and greater from an equally protected freedom of the press. But the people of the United States consider both as essential to the preservation of their rights and liberties. They, therefore, have chosen to leave both entirely unrestrained, subjecting the abuse of that liberty only to remedies provided by law for individual wrongs. To deny

the President a right to comment freely upon the conduct of coördinate branches of the government would not only be denying him a right secured to every other citizen of the republic, but might deprive the people of the benefit of his opinion of public affairs, and of his watchfulness of their interests and welfare. That under circumstances where he was called upon by a large body of his fellow citizens to address them, and when he was goaded by contumely and insult, he permitted himself to transcend the limits of proper and dignified speech, such as was becoming the dignity of his station, is matter of deep regret and highly censurable. But, in my opinion, it can receive no other punishment than public sentiment alone can inflict.

If I rightly understand the accusation contained in the eleventh article, it is substantially this: "That on the 18th day of August, 1866, the President, by public speech, declared, in substance, that the Thirty-ninth Congress was not a Congress of the United States, authorized to exercise legislative power, thereby intending to deny that the legislation of said Congress was valid or obligatory on him, except so far as he saw fit to approve the same, and thereby denying, and intending to deny, the power of said Thirty-ninth Congress to propose amendments to the Constitution;" and, "*in pursuance of said declaration,*" the President, on the 21st day of February, 1868, attempted to prevent the execution of the act of March 2, 1867:

First. By unlawfully attempting to devise means to prevent Mr. Stanton from resuming the functions of Secretary of War, after the Senate had refused to concur in his suspension.

Second. By unlawfully attempting to devise means to prevent the execution of the Appropriation Act for the

support of the army, for the fiscal year ending June 30, 1868.

And that further, in pursuance of said declaration, he unlawfully attempted to prevent the execution of the so-called Reconstruction Act of March 2, 1867.

Whereby he was guilty of a high misdemeanor in office on the 21st day of February, 1868.

I have already stated, in commenting on the tenth article, that I do not consider the President's declaration on the 18th of August, 1866, as fairly liable to the construction there put upon it and repeated in this article. There were no such words said, nor can they be fairly implied. The words were that it was not a Congress of the United States, but only of a part of the States. Taken literally, these words were true. But a Congress of a part of the States may be a constitutional Congress, capable of passing valid laws, and as such the President has uniformly recognized the Thirty-ninth Congress. The declaration being perfectly susceptible of an innocent meaning, and all his official acts being consistent with that meaning, it would be unjust to suppose a different one, which he did not express.

In this view the foundation of the article fails.

But whether in pursuance of that declaration or not, did he *unlawfully* devise means to prevent the execution of the law of March 2, 1867, in the manner charged?

The first specification rests, if upon anything, upon the letter to General Grant, dated February, 10, 1868. This letter must be taken as a whole, and not considered by detached parts.

From that letter I am satisfied that the President expected General Grant, in case the Senate should not concur in the suspension of Mr. Stanton, to resign the office to him so that he might have an opportunity to fill the

office before Mr. Stanton resumed the performance of his duties, with a view to compelling Mr. Stanton to seek his remedy in the court. If the President had such a design, it could only be carried out legally by removing Mr. Stanton before he should have time to resume the functions of Secretary of War, if the President had a right to remove him. It has been seen, by my remarks upon the first article, that I think the President had such a right. The design, then, if the President entertained it, was not unlawful.

As to the second specification, it has not, that I can see, any proof to sustain it; and if it had, it is not quite apparent how an attempt to prevent the execution of the act for the support of the army can be considered as proof of an intention to violate the Civil Tenure Act, which seems to be the gravamen of this article.

No evidence whatever was adduced to show that the President had devised means, or in any way attempted, to prevent the execution of the "Act to provide for the more efficient government of the rebel States."

It has been assumed in argument by the managers that the President, in his answer, claims not only the right under the Constitution to remove officers at his pleasure, and to suspend officers for indefinite periods, but also to fill offices thus vacated for indefinite periods—a claim which, if admitted, would practically deprive the Senate of all power over appointments, and leave them in the President alone. The President does claim the power of removal, and that this includes the power of suspension. But a careful examination of his answer will show that he claims no other power than that conferred by the act of 1795, to fill vacancies in the departments temporarily, and for a period not exceeding six months, not by appointment, without the consent of the Senate, but by designa-

tion, as described in the act — a power conferred by Congress, and which can be taken away at any time, if it should be found injurious to the public interests.

Even, however, if the claim of the President did go to the extent alleged, it is not made a charge against him in the articles of impeachment. And however objectionable and reprehensible any such claim might be, he cannot be convicted of a high misdemeanor for asserting an unconstitutional doctrine, if he has made no attempt to give it practical effect, especially without a charge against him and a trial upon it.

I am unwilling to close the consideration of this remarkable proceeding before adverting to some other points which have been presented in the argument.

The power of impeachment is conferred by the Constitution in terms so general as to occasion great diversity of opinion with regard to the nature of offenses which may be held to constitute crimes or misdemeanors within its intent and meaning. Some contend, and with great force of argument, both upon principle and authority, that only such crimes and misdemeanors are intended as are subject to indictment and punishment as a violation of some known law. Others contend that anything is a crime or misdemeanor within the meaning of the Constitution which the appointed judges choose to consider so; and they argue that the provision was left indefinite from the necessity of the case, as offenses of public officers, injurious to the public interest, and for which the offender ought to be removed, cannot be accurately defined beforehand; that the remedy provided by impeachment is of a political character, and designed for the protection of the public against unfaithful and corrupt officials. Granting, for the sake of the argument, that this latter construction is the true one, it must be conceded that the power thus

conferred might be liable to very great abuse, especially in times of high party excitement, when the passions of the people are inflamed against a perverse and obnoxious public officer. If so, it is a power to be exercised with extreme caution, when you once get beyond the line of specific criminal offenses. The tenure of public offices, except those of judges, is so limited in this country, and the ability to change them by popular suffrage so great, that it would seem hardly worth while to resort to so harsh a remedy, except in extreme cases, and then only upon clear and unquestionable grounds. In the case of an elective chief magistrate of a great and powerful people, living under a written Constitution, there is much more at stake in such a proceeding than the fate of the individual. The office of President is one of the great coördinate branches of the government, having its defined powers, privileges, and duties; as essential to the very framework of the government as any other, and to be touched with as careful a hand. Anything which conduces to weaken its hold upon the respect of the people, to break down the barriers which surround it, to make it the mere sport of temporary majorities, tends to the great injury of our government, and inflicts a wound upon constitutional liberty. It is evident, then, as it seems to me, that the offense for which a chief magistrate is removed from office, and the power intrusted to him by the people transferred to other hands, and especially where the hands which receive it are to be the same which take it from him, should be of such a character as to commend itself at once to the minds of all right thinking men as, beyond all question, an adequate cause. It should be free from the taint of party; leave no reasonable ground of suspicion upon the motives of those who inflict the penalty, and address itself to the country and the civilized world

as a measure justly called for by the gravity of the crime and the necessity for its punishment. Anything less than this, especially where the offense is not defined by any law, would, in my judgment not be justified by a calm and considerate public opinion as a cause for removal of a President of the United States. And its inevitable tendency would be to shake the faith of the friends of constitutional liberty in the permanency of our free institutions, and the capacity of man for self-government.

Other offenses of the President, not specified in the articles of impeachment, have been pressed by the managers as showing the necessity for his removal. It might be sufficient to reply that all such were long prior in date to those charged in the articles, have been fully investigated in the House of Representatives, were at one time decided by a majority of the learned committee on the judiciary in that body to present no sufficient ground for impeachment, and were finally dismissed by the House, as not affording adequate cause for such a proceeding, by a vote of nearly, if not quite, two to one. But it is enough to say that they are not before the Senate and that body has no right to consider them. Against them the President has had no opportunity to defend himself, or even to enter his denial. To go outside of the charges preferred, and to convict him because, in our belief, he committed offenses for which he is not on trial, would be to disregard every principle which regulates judicial proceedings, and would be not only a gross wrong in itself, but a shame and humiliation to those by whom it was perpetrated.

It has been further intimated by the managers that public opinion calls with a loud voice for the conviction and removal of the President. One manager has even gone so far as to threaten with infamy every senator who

voted for the resolution passed by the Senate touching the removal of Mr. Stanton, and who shall now vote for the President's acquittal. Omitting to comment upon the propriety of this remark, it is sufficient to say, with regard to myself, that I not only did not vote for that resolution, but opposed its adoption. Had I so voted, however, it would afford no justification for convicting the President, if I did not, on examination and reflection, believe him guilty. A desire to be consistent would not excuse a violation of my oath to do "impartial justice." A vote given in haste and with little opportunity for consideration would be a lame apology for doing injustice to another, after full examination and reflection.

To the suggestion that popular opinion demands the conviction of the President on these charges, I reply that he is not now on trial before the people, but before the Senate. In the words of Lord Eldon, upon the trial of the queen, "I take no notice of what is passing out of doors, because I am supposed, constitutionally, not to be acquainted with it." And again, "It is the duty of those on whom a judicial task is imposed to meet reproach and not court popularity." The people have not heard the evidence as we have heard it. The responsibility is not on them, but upon us. They have not taken an oath to "do impartial justice according to the Constitution and the laws." I have taken that oath. I cannot render judgment upon their convictions, nor can they transfer to themselves my punishment, if I violate my own. And I should consider myself undeserving the confidence of that just and intelligent people who imposed upon me this great responsibility, and unworthy a place among honorable men, if for any fear of public reprobation, and for the sake of securing popular favor, I should disregard the convictions of my judgment and my conscience.

The consequences which may follow either from conviction or acquittal are not for me, with my convictions, to consider. The future is in the hands of Him who made and governs the universe, and the fear that He will not govern it wisely and well would not excuse me for a violation of His law.

EXTRACTS FROM THE OPINION OF SENATOR SHERMAN,
REPUBLICAN, VOTING GUILTY.

This cause must be decided upon the reasons and presumptions which by law apply to all other criminal accusations. Justice is blind to the official station of the respondent and to the attitude of the accusers, speaking in the name of all the people of the United States. It only demands of the Senate the application to this cause of the principles and safeguards provided for every human being accused of crime. For the proper application of these principles we ourselves are on trial before the bar of public opinion. The novelty of this proceeding, the historical character of the trial, and the grave interests involved, only deepen the obligation of the special oath we have taken to do impartial justice according to the Constitution and laws.

And this case must be tried upon the charges now made by the House of Representatives. We cannot consider other offenses. . . .

In forming this conviction, we are not limited merely to the rules of evidence, which by the experience of ages have been found best adapted to the trial of offenses in the double tribunal of court and jury, but we may seek light from history, from personal knowledge, and from all sources that will tend to form a conscientious conviction of the truth. And we are not bound to technical definitions of crimes and misdemeanors. A willful viola-

tion of the law, a gross and palpable breach of moral obligations tending to unfit an officer for the proper discharge of his office or to bring the office into public contempt and derision, is, when charged and proven, an impeachable offense. And the nature and criminality of the offense may depend on the official character of the accused. . . .

The principal charges against the President are that he willfully and purposely violated the Constitution and the laws, in the order for the removal of Mr. Stanton, and in the order for the appointment of General Thomas as Secretary of War *ad interim*. These two orders were contemporaneous, — part of the same transaction, — but are distinct acts, and are made the basis of separate articles of impeachment.

Their common purpose, however, was to place the Department of War under the control of General Thomas, without the advice and consent of the Senate. . . .

If the President has the power, during the session of the Senate, and without their consent, to remove the Secretary of War, he is not guilty under the first, fourth, fifth, and sixth articles presented by the House, while, if the exercise of such a power is in violation of the Constitution and the laws, and was done by him willfully, and with the intent to violate the law, he is guilty not only of malfeasance in office, but of a technical crime, as charged by the first article, and upon further proof of the conspiracy alleged is guilty, as charged by the fourth, fifth, and sixth articles.

The power to remove Mr. Stanton is claimed by the President, *first*, under the Constitution of the United States, and, *second*, under the act of 1789, creating the Department of War.

First. Has the President, under and by virtue of the Constitution, the power to remove executive officers? . . .

The power of removal at his will is not a necessary part of his executive authority. It may often be wise to confer it upon him ; but if so it is the law that invests him with discretionary power, and it is not a part, or a necessary incident, of his executive power. It may be and often is conferred upon others.

That the power of removal is not incident to the executive authority is shown by the provisions of the Constitution relating to impeachment. The power of removal is expressly conferred by the Constitution only in cases of impeachment, and then upon the Senate, and not upon the President. . . .

The sole power of the President conferred by the Constitution as to officers of the government is the power to appoint, and that must be by and with the advice and consent of the Senate. . . .

I am still of the opinion that the Constitution does not confer upon the President as a part of or as incident to his executive authority the power to remove an officer, but that the removal of an officer, like the creation of an office, is the subject of legislative authority, to be exercised in each particular case in accordance with the law.

I therefore regard the Tenure of Office Act as constitutional and as binding upon the President to the same extent as if it had been approved by him. . . . If, therefore, the removal of Mr. Stanton is within the penal clauses of that act, the President is guilty not only of an impeachable, but of an indictable offense. . . .

It follows, that, as Mr. Stanton is not protected by the Tenure of Civil Office Act, his removal rests upon the act of 1789, and he, according to the terms of that act and of the commissions held by him, and in compliance with the numerous precedents cited in this cause, was law-

fully removed by the President, and his removal, not being contrary to the provisions of the act of March 2, 1867, the first, fourth, fifth, and sixth articles, based upon his removal, must fail.

The only question remaining in the first eight articles is whether the appointment of General Thomas as Secretary of War *ad interim*, as charged in the second, third, seventh, and eighth articles, is in violation of the Constitution and the laws, and comes within the penal clauses of the Tenure of Office Act, and was done with the intent alleged. If so, the President is guilty upon these articles. . . .

I, therefore, conclude that the appointment of General Thomas was a willful violation of the law, in derogation of the rights of the Senate, and that the charges contained in the second, third, seventh, and eighth articles are true.

The criminal intent alleged in the ninth article is not sustained by the proof. All the President did do in connection with General Emory is reconcilable with his innocence, and, therefore, I cannot say he is guilty as charged in this article.

The tenth article alleges intemperate speeches, improper and unbecoming a chief magistrate, and the seditious arraignment of the legislative branch of the government. It does not allege a specific violation of law, but only personal and political offenses for which he has justly forfeited the confidence of the people.

Am I, as a senator, at liberty to decide this cause against the President even if guilty of such offenses? That a President, in his personal conduct, may so demean himself by vice, gross immorality, habitual intoxication, gross neglect of official duties, or the tyrannous exercise of power, as to justify his removal from office is clear enough; but the Senate is bound to take care that the

offense is gross and paplable, justifying in its enormity the application of the strong words, "high crime and misdemeanor." . . .

The House of Representatives of the Thirty-ninth Congress refused to rest an accusation upon these speeches, and so of the present House, until other acts of a different character induced these articles of impeachment. We must pass upon this article separately, and upon it my judgment is that it does not allege a crime or misdemeanor within the meaning of the Constitution.

The great offense of the President consists of his opposition, and thus far successful opposition, to the constitutional amendment proposed by the Thirty-ninth Congress, which, approved by nearly all the loyal States, would, if adopted, have restored the rebel States, and thus have strengthened and restored the Union, convulsed by civil war. Using the scaffoldings of civil governments formed by him in those States without authority of law, he has defeated this amendment, has prolonged civil strife, postponed reconstruction and reunion, and aroused again the spirit of rebellion overcome and subdued by war. He, alone, of all the citizens of the United States, by the wise provisions of the Constitution, is not to have a voice in adopting amendments to the Constitution; and yet, he, by the exercise of a baleful influence and unauthorized power, has defeated an amendment demanded by the result of the war. He has obstructed as far as he could all the efforts of Congress to restore law and civil government to the rebel States. He has abandoned the party which trusted him with power, and the principles so often avowed by him which induced their trust.

Instead of coöperating with Congress, by the execution of laws passed by it, he has thwarted and delayed their execution, and sought to bring the laws and the

legislative power into contempt. Armed by the Constitution and the laws with vast powers, he has neglected to protect loyal people in the rebel States, so that assassination is organized all over those States, as a political power to murder, banish, and maltreat loyal people, and to destroy their property. When he adds to these political offenses the willful violation of a law by the appointment of a high officer during the session of the Senate, and without its consent, and with the palpable purpose to gain possession of the Department of War, for an indefinite time, a case is made not only within the express language of the law a high misdemeanor, but one which includes all the elements of a crime, to wit: a violation of express law, willfully and deliberately done, with the intent to subvert the constitutional power of the Senate, and having the evil effect of placing in the hand of the President unlimited power over all the officers of the government.

This I understand to be the substance of the eleventh article. It contains many allegations which I regard in the nature of inducement, but it includes within it the charge of the willful violation of law more specifically set out in the second, third, seventh, and eighth articles, and I shall therefore vote for it.

EXTRACTS FROM THE OPINION OF MR. SENATOR EDMUNDS
(REPUBLICAN).

My duties are clearly judicial, and I have no concern with, or responsibility for, the consequences, political or other, that may flow from my decision. . . .

The statement of these principles would have been a work of entire supererogation, but for the fact that the appeals and remonstrances of the press of the country, touching our disposition of the case, have been urgent,

and which, if extended to all trials, would poison the fountains of justice.

I cannot doubt that the regulation of the tenure of the offices to be established by law was not confided by the Constitution to the President, but was left to be provided for by the legislature. . . .

Does the act apply to the case of Mr. Stanton, and forbid his removal at the will of the President? . . .

If, as we have shown, when the Tenure of Office Act passed, he was the Secretary of War named in and affected by the proviso, the question is, Was he, on the 21st day of February, 1868, holding office in the same way and under the same tenure that he was at the passage of the act? It is not disputed that he was. Was he, then, at the passage of the act holding his office "during the term of the President by whom he was appointed?" He was appointed by President Lincoln. Then was March 2, 1867, the time of the passage of the act, during the term of Mr. Lincoln, who was, so far as relates to Mr. Stanton, the President named in the proviso?

The Constitution says that the President "shall hold his office during the *term of four years*," and that the Vice-President shall be "chosen for the same term." It creates and permits no other term or period whatever, but provides only, in case of death, etc., for the devolution of "duties" or *office*, not the term, upon the Vice-President.

Mr. Lincoln began a regular term on March 4, 1865, and died in April of that year, when the office devolved on the respondent. Now, if the respondent became thereby invested with a constitutional "*term*" of his own, as President, he must be in for *four years* from April 15, 1865, which is not pretended by any one. Hence, he must take the office for the unexpired term of Mr. Lincoln, his pre-

decessor. It was the *office* and not the *term*, which are distinct things, that Mr. Lincoln held when he died. The *office* did not die with him, but survived in all its current identity and force to his successor, the respondent, measured by precisely the same "*term*" that it was before. When, therefore, the statute speaks of "the term of the President," it does not refer to ownership or possession, which a man cannot be said to have after his death, but it plainly refers to the term *for and in relation to which* that President was elected, and which, by the Constitution, was attributed to him. A reference to any lexicon will show that this is the principal and most frequent meaning of the word "of."

To claim that at the death of Mr. Lincoln the "term" applicable to him thereby expired and ended, would be as erroneous as to claim that the death of a tenant for a term of years, not yet expired, produces an end of the term, and that his legal representative either takes a new term or none at all. . . .

The act, then, prohibited the removal of Mr. Stanton and the appointment of General Thomas, and it declared such removal or appointment to be a high misdemeanor and denounced a punishment against it.

But it is contended that, as the articles charge not only an intentional doing of the acts forbidden, — which the respondent admits, — but also an intent thereby to violate the law and the Constitution, — which he denies, — he cannot be found guilty unless it is also proved that such intent existed in point of fact. I do not understand that to be the law, and I think no authority for such a proposition can be found anywhere. . . .

It is enough, for the present, to say that if the respondent be legally guilty, to acquit him upon any such grounds as are claimed would be to sanction a disregard

of law and to invite him, as well as future presidents, to try more forcible and dangerous experiments upon the government, instead of teaching the great lesson, that, in some form, all nations must learn at last that its highest officers ought to be most careful and scrupulous in the observance of its laws. I conclude, then, that the intents charged in these three articles are either immaterial or such as the law conclusively infers from the acts proved, although I should have no hesitation in finding, as a matter of fact, that in the removal of Mr. Stanton, the respondent did intend to violate the act of March 2, 1867, if not the Constitution. . . .

I am of the opinion, therefore, that the respondent is guilty, as charged in the first three articles.

The fourth article I do not think is proved.

The fifth article charges an unlawful conspiracy to prevent the execution of the act of March 2, 1867, and an unlawful attempt to prevent Mr. Stanton from holding the office. This article is, I think, embodied within the same principles as the first, and I am of the opinion that the respondent is guilty.

I cannot resist the conclusion that the sixth and seventh articles are proved and that the respondent is guilty, as therein charged.

The respondent is not guilty upon the eighth article.

The ninth article appears to me also to be wholly unsustained by proof.

The tenth and eleventh articles, so far as they relate to the sayings and speeches of the respondent, require for their support, under the rule I have before adverted to, an unlawful and criminal design and intent. However disgraceful these speeches may be, — and they certainly do not need any comment in that respect, — fairly considered they were, I think, only intended to appeal to the

political prejudices of the people, and to induce them to overturn the party of Congress by a revolution at the polls, and not by illegal violence. As such, I think them, in a legal sense, within the liberty of speech secured by the Constitution and by the spirit of our institutions; a liberty so essential to the welfare and permanency of a free government in a state of peace and under the rule of municipal law, that it were better to tolerate a considerable abuse of it, rather than to subject it to legal repression or condemnation.

Besides the accusation of criminal speech, article eleven seems to contain three charges: a contriving of means to defeat the act of March 2, 1867; to defeat the army appropriation bill of 1867; and to defeat the act for the more efficient government of the rebel States. The first and third of these charges, I think, for the reasons already stated, are proved by the evidence already referred to as to the causes for and the attempt to remove Mr. Stanton. The second, I think, is not. But upon the construction put upon this article by the Senate, that it only contains an accusation touching Mr. Stanton, I feel bound to vote guilty upon it.

In my opinion this high tribunal is the sole and exclusive judge of its own jurisdiction in such cases, and that, as the Constitution did not establish this procedure for the punishment of crime, but for the secure and faithful administration of the law, it was not intended to cramp it by any specific definition of high crimes and misdemeanors, but to leave each case to be defined by law, or, when not defined, to be decided upon its own circumstances, in the patriotic and judicial good sense of the representatives of the States.

EXTRACTS FROM THE OPINION FILED BY SENATOR
CHARLES SUMNER.

Voting guilty on all the articles, I feel that there is no need of explanation or apology. Such a vote is its own best defender; but I follow the example of others. . . .

Not to dislodge them is to leave the country a prey to one of the most hateful tyrannies of history, especially is it to surrender the Unionists of the rebel States to violence and bloodshed. Not a month, not a week, not a day should be lost. The safety of the republic requires action at once. The lives of innocent men must be rescued from sacrifice. I would not in this judgment depart from that moderation which belongs to the occasion; but God forbid that when called to deal with so great an offender I should affect a coldness which I cannot feel. . . .

The formal accusation is founded on certain recent transgressions, enumerated in articles of impeachment, but it is wrong to suppose that this is the whole case. It is very wrong to try this impeachment merely on these articles. It is unpardonable to higggle over words and phrases, when for more than two years the tyrannical pretensions of this offender, now in evidence before the Senate, as I shall show, have been manifest in their terrible heartrending consequences. . . .

Before entering upon the consideration of the formal accusations, it is important to understand the nature of the proceeding; and here on the threshold we confront the effort of the apologists, who have sought in every way to confound this great constitutional trial with an ordinary case of *nisi prius*, and to win for the criminal President an Old Bailey acquittal, where, on some quibble, the prisoner is allowed to go without delay. From beginning to end this has been painfully apparent, thus degrading the

trial and baffling justice. Point by point has been pressed, sometimes by counsel, and sometimes even by senators; leaving the substantial merits untouched, as if on a solemn occasion like this, involving the safety of the republic, there could be any other question. The first effort was to call the Senate sitting for the trial of impeachment, a court, and not a Senate. . . .

As we discern the true character of impeachment under our Constitution, we shall be constrained to confess that it is a political proceeding before a political body with political purposes; that it is founded upon political offenses properly for the consideration of a political body and subject to a political judgment only. . . .

The form of procedure is a topic germane to the last head (political offenses are impeachable offenses) and helping to illustrate it. It is natural that the trial of political offenses before a political body with a political judgment only should have less of form than a trial at common law. . . .

From the form of procedure I pass to the rules of evidence, and here, again, the Senate must avoid all technicalities and not allow any artificial rule to shut out the truth. On this account I voted to admit all evidence that was offered during the trial, believing, in the first place, that it ought to be heard and considered, and in the second place, that even if it were shut out from these proceedings, it could not be shut out from the public, or shut out from history, both of which must be the ultimate judges. Another rule relates to the burden of proof, and is calculated to have a practical bearing. The other relates to matters of which the Senate will take cognizance without any special proof, thus importing into the case unquestionable evidence, which explains and aggravates the transgressions charged. The Senate considers only how

the safety of the people, which is the supreme law, can be best preserved, and to this end the ordinary rule of evidence is reversed. If on any point you entertain doubt, the benefit of these doubts must be given to your country. And this is the supreme law. When tried on an indictment in the criminal courts, Andrew Johnson may justly claim the benefit of your doubts, but at the bar of the Senate, on the question of his expulsion from office, his vindication must be in every respect and on each charge beyond a doubt. He must show that his longer continuance in office is not inconsistent with the public safety:—

“Or at least so prove it, that the probation bear
No hinge or loop to hang a doubt on.”

Anything short of this is to trifle with the republic and its transcendent fortunes. . . .

Another rule of evidence, having particular virtue in this case, is that courts will take judicial cognizance of certain matters without any special proof on the trial. Among these are whatever ought to be generally known within the limits of the jurisdiction, including the history of the country. . . . Applying this rule to the present proceeding, it will be seen at once how it brings before the Senate, without any further evidence, a long catalogue of crime affecting the character of the President beyond all possibility of defense, and serving to explain the latter acts on which the impeachment is founded. It was in this chamber that Andrew Johnson exhibited himself in beastly intoxication while he took his oath of office as Vice-President, and all that he has done since is of record here. Here in the Senate we know officially how he has made himself the attorney of slavery, the usurper of legislative power, the violator of law, the patron of rebels, the helping hand of rebellion, the kicker from office of good citizens, the open bunghole of the treasury, the architect

of the whiskey ring, the stumbling-block of all good laws by wanton vetoes and criminal hindrances. To the apologists of the President, who set up the quibbling objection that they are not alleged in the articles of impeachment, I reply that even if excused on this account from judgment, they may be treated as evidence. They are the reservoir from which to draw in determining the true character of the latter acts for which the President is arraigned, and especially the intent by which he was animated . . .

I should not proceed further under this head but for the new device which makes its appearance under the auspices of the senator from Maine, Mr. Fessenden, who tells us that whether Mr. Stanton came under the first section of the statute or not, the President had a clear right to suspend him under the second.

It is a device well calculated to help the President and to hurt Mr. Stanton with those who regard devices more than the reason of the statute and its spirit. . . . (Swarm of technicalities and quibbles.)

I now come upon that swarm of technicalities, devices, quirks, and quibbles which, from the beginning, have infested this great proceeding. It is hard to speak of such things without giving utterance to a contempt not entirely parliamentary. To say that they are petty and miserable is not enough. To say that they are utterly unworthy of this historic occasion is to treat them politely. They are nothing but parasitic insects, like "vermin generated in a lion's mane," and they are so innumerable and numerous that to deal with them as they skip about one must have the patience of the Italian peasant, who catches and kills one by one the diminutive animals that invest his person. . . .

Constantly we are admonished that we must confine

ourselves to the articles. Senators express a pious horror at looking outside the articles, and insist upon drawing attention to those only. Here the senator from Maine is very strong. It is the specific offense charged, and this only, he can see. He will not look at anything else, although spread upon the record of the Senate and filling the land with its accumulated horrors. A senator who begins by turning these articles into an inverted opera glass takes the first step towards a judgment of acquittal. . . .

The lawyers have made a painful record. Nothing ever occurred so much calculated to bring the profession into disrepute, for nothing before has been such a theatre where lawyers were the actors. A quibble is a golden apple for which the lawyer will always turn aside from his career. A quibble, poor and barren as it is, gives him such delight that he is content to purchase it by the sacrifice of reason, propriety, and truth. . . .

Next to an outright mercenary, give me a lawyer to betray a great cause. The forms of law lend themselves to the betrayal. It is impossible to forget that the worst pretensions of prerogative, no matter how carelessly made, have been shouldered by the lawyers. It was they who carried ship money against the patriotic exertions of Hampden, and in our country it was they who held up slavery in all its terrible pretensions from beginning to end. What is sometimes called the legal mind of my own honored State, bent before the technical reasoning which justified the unutterable atrocities of the Fugitive Slave Bill, while the Supreme Court of the State adopted this crime from the bench. Alas, that it should be so. When will lawyers and judges see that nothing short of justice can stand. . . .

After this survey it is easy for me to declare how I

shall vote. My duty will be to vote guilty on all of the articles. If consistent with the rules of the Senate, I should vote, "guilty of all, and infinitely more." . . .

Something also has been said of the people now watching our proceedings with patriotic solicitude, and it has been proclaimed that they are wrong to intrude their judgment. I do not think so. This is a political proceeding which the people at this moment are as competent to decide as the Senate. They are the multitudinous jury. . . . In nothing can we escape their judgment, least of all on a question like that now before us. It is a mistake to suppose that the Senate only has heard evidence. The people have heard it also, day by day, as it was delivered, and have carefully considered the case on its merits, properly dismissing all political subtleties. It will be for them to review what has been done. They are above the Senate and will re-judge its justice.

CHAPTER XI

REPUDIATION OF NATIONAL DEBT REJECTED BY THE PEOPLE : DEATH OF SENATOR FESSENDEN

1868-1869

At the conclusion of the impeachment trial, Congress resumed its ordinary labors, and Senator Fessenden took his part in them, strengthened and rejoiced by the numerous evidences that his vote on the impeachment commanded much praise and admiration in estimable quarters, and that he was far from being bereft of political standing and the respect of his fellow countrymen.

Some important financial measures came up. The country was yet far away from a specie basis, and numerous were the measures to restore a normal condition of business without suffering or disturbance. Mr. Fessenden remarked that he had read all these schemes, and thought there was nothing in any of them. He believed that the true course was to reduce the legal tender paper gradually until the government could pay in specie, and then the national bank currency could be increased as business demanded ; that the proper way to accomplish this was by taxation sufficient to obtain a surplus which should be devoted to retiring the legal tenders.

In the debate on the bill to increase the national bank currency, Senator Fessenden opposed the clause authorizing the issue of five per cent bonds to run absolutely for thirty years, because it involved the idea of the government losing that controllability which had been a part of its financial system, and because the time would come

when the bonds could be funded at a lower rate of interest than five per cent.

In discussing the proposition to retire an amount of legal tenders equal to the issues of bank currency to the new national banks, he said if it was made imperative it must be done either by issuing bonds for that purpose or by securing a surplus in the Treasury. The better way to return to specie payments was to have a surplus in the Treasury to do it. But if taxation was lightened so that there would be no surplus with which to redeem the greenbacks, and Congress refused to issue any bonds in place of them because they paid no interest, it would end in an indefinite postponement of a return to specie payments. The true idea in his judgment was to have a surplus every year in the Treasury, to be raised by taxation, and apply that surplus to a limited and reasonable extent every month as they went along, to accomplish a return to specie payments, without which they could never have any sound financial operations in the country.

He said the question was, whether the condition of the reconstructed States did not absolutely require an increase of their local bank circulation, which could only be had by increasing the amount now permitted by the law fixing the circulation of the national banks. The proposition to increase the circulation and retire a proportionate amount of legal tenders had the germ of the correct principle for returning to specie payments. Three hundred millions of bank currency was not enough circulation for the country, but it was plainly enough while there was four hundred millions of government currency. If the national bank system was to remain permanent, its currency must be increased from time to time as the business of the country increased. It could not be done without dangerously inflating the currency, until a sys-

tem was adopted for withdrawing the government legal tender notes. They could not throw the banking system open to everybody until the government currency was withdrawn, as the circulation would soon become enormous, and specie payments be indefinitely postponed.

The proposition from the finance committee was to increase the circulation of the national banks by twenty millions additional, to be issued to the banks of those States and Territories which had less than five per cent of currency per capita. The amount of the national bank currency authorized by law was three hundred millions, and this had been all taken, leaving none for the reconstructed States. This proposition was for their relief. Mr. Fessenden favored it, but wished the government to enter upon a policy that would retire its paper money until it could resume specie payments.

Senator Fessenden always advocated the most honorable performance of the contracts of the government. In the debate on the bill for the issue of temporary loan certificates to take up interest-bearing notes about coming due, Mr. Cole argued that if the interest-bearing notes had become payable, the government could let them lie unpaid until it was convenient to pay them. Mr. Fessenden replied that such a course was nothing more nor less than repudiation and bankruptcy. The obligations were due at a certain date. They must be paid when they became payable. The senator proposed to let go unpaid a large amount of the government obligations, principal and interest. "No government upon the face of the earth could deal with its creditors upon such principles."

He resisted at the outset the propositions to equalize bounties, or to pay pensions except for disabilities incurred in actual service. He foresaw the enormous demands that

would be made upon the Treasury if bad precedents were once established. His courage in legislation was shown in his remarks on the bill, which came up on March 12, to pay pensions to the surviving soldiers of the war of 1812 who had served not less than three months. They had, he said, within a comparatively recent period, given a pension to each surviving soldier of the Revolution. The expediency of this was doubtful, but the country then was able to do it, and the argument was that the services in the Revolutionary war were of peculiar merit. The idea that a man must be pensioned simply for three months' military service would not be tolerated in any other nation. It was now proposed to put upon the pension roll every man who served three months in the war of 1812 who was now surviving. By and by, it would be proposed to do the same thing for the survivors of the Seminole war, of the Black Hawk war, of the Mexican war, and, not far hence, of the recent great war, in which millions of men were engaged. No other nation could stand a principle of that kind carried out in practice. He "dreaded the establishment of a precedent which could not be resisted hereafter and the effect of which would be to keep the country continually loaded with debt," and said: "We considered ourselves a great people. Whether we were a wise people was more questionable. But to imagine we could throw overboard all the rules that other great nations had considered essential to the management of public affairs, and do it with impunity because we were a nation where everybody voted, was very problematical."

Mr. Sherman and Mr. Edwards also opposed the bill. But the bill passed. Since then the predictions made by Mr. Fessenden have come true. The survivors of the Mexican war have been pensioned and laws have been enacted which will pension all the soldiers of the civil

war. The annual appropriations for pensions have grown to a colossal sum, far greater than the annual expense of the German or French army. More than half of the soldiers drawing pensions in the year 1900 are men whose disabilities were not incurred in the service but are due to the advance of age or the incidents of life since the war.

Mr. Fessenden would never violate just principles of financial legislation on grounds of sentiment or for what appeared to be meritorious reasons. As in the session of 1866 he opposed the purchase of Mr. Petigru's library by Congress for the reason that it was a mere gift of the public money, so now he opposed the proposition to remit the duties on a bell made in France from American copper and presented to an institution of sisters of charity in this country. He said he feared the introduction of such a principle as taking off the duties of any kind, either internal or external, because it was to benefit some charitable institution. Congress had hitherto steadily refused to do anything of the kind for fear it might prove an entering wedge.

He opposed a clause in the Naval Appropriation Bill which required master carpenters, rope-makers, and calkers, employed in navy yards, to be appointed from civil life, and prohibited the employment of such men from the naval service. The object of the clause was to give such employment to political workers, and mix up politics with business. The Senate struck it out.

He successfully resisted a bill to issue an American register to a vessel whose owners, loyal citizens, had transferred her during the civil war, under the British flag. He spoke at length on June 29 against the proposition to strike out the appropriation for sick and disabled seamen. This fund usually sustained itself by a very small reserva-

tion from sailors' wages. When speaking against an appropriation to purchase copies of the Constitution for distribution among members of Congress, Mr. Fessenden remarked that he belonged to that illiberal class of persons who thought the matter of education of the people did not exactly come within the regulation of the general government, but had better be left to the States. He believed the States would slacken in their efforts if the general government took the education of the people into its own hands, and it would result in injury rather than benefit. The measure adopted by Congress providing for a commissioner of education with an educational bureau did not meet his approval.

The war between Congress and President Johnson had disposed Republicans to curtail the power of officials. In the Deficiency Bill were two clauses, one punishing officials for retaining in office any person for whom no appropriation had been made, while the other forbade any contract for a larger sum than had been appropriated, and provided that any official violating it should be sent to the penitentiary. Mr. Fessenden pointed out that the first proposition might stop all the work of the government, as very often the appropriations were not made till after the new year had begun. As to the other proposition, it would leave the government at the mercy of the contractors if officials were not allowed to contract for the whole of the work in the beginning, though Congress was in the habit of appropriating only enough to keep the work going on for the fiscal year.

Congress adjourned from July 27 to the 21st of September. A few members assembled on September 21, when the two houses were immediately adjourned till October 16. An adjournment was then made to November 10 and again to December. President Johnson

behaved with moderation during the balance of his term.

Public opinion as to impeachment began to change in July. It was seen that the Republicans had been saved from a political blunder by the defeat of the impeachment. Mr. Fessenden received, even from old Abolitionists and Free Soilers, many letters approving his course. Hamilton Fish declared that his letter in reply to the Boston invitation "was admirable, and the Republicans would yet learn that he, with Trumbull, Grimes, and Henderson, were their best friends, who had saved them from ruin." To the charge that Fessenden had been bought, the Rev. Dr. Storrs replied that he would as soon think that he himself could be bought. A letter that afforded him as much satisfaction as any was from his lifelong, faithful, and steadfast friend, Rensselaer Cram of Portland. Mr. Cram was a leading citizen who had always been an active supporter of Mr. Fessenden, and who, while never holding office himself, had exercised great influence in state politics by his wisdom, uprightness, and character. He congratulated his friend on "his proud position that he has passed through a fiery ordeal; that every one now agreed that the result was best for the party; that he had always justified Mr. Fessenden's vote, and believed the civilized world outside of the United States sustained it." A number of influential citizens of the State, whose names had been published as vice-presidents of the public meetings got up to influence the votes of senators, now wrote that their names had been used without their consent or knowledge. They added that they fully agreed with him in his action and opinion. Senator Dixon of Connecticut sent a letter to express the deep feeling he entertained of the immense obligations of the country to Fessenden and Grimes for their action on the impeach-

ment trial. "Time would be required to measure the good you did and the courage you exhibited. Johnson's removal was of no consequence compared to the danger of overthrowing our institutions. It is due mainly to you and Grimes that the country was saved from seeing the President removed by violence when any party desired it. This was averted by a degree of courage and patriotism the world had never seen surpassed. My respect for men who resisted the tremendous influences brought to bear upon them is too great for ordinary language to express."

Nearly thirty years after these events, that eminent scholar and diplomatist, Andrew D. White, in his oration on evolution in politics, thus spoke of Mr. Fessenden's action:—

"We need first of all a generation of journalists who will give a fair summary of the doings of our representatives. The country would then be educated to see that some of the so-called great men are but futile bubbles on the stream of our national life, while other things and other men of real greatness would be revealed. There is the Morrill bill of 1862, which gave to each State a centre for scientific and technical instruction. Let me give one more example to illustrate my meaning. Several years ago an effort was made to impeach the President of the United States. The current was strong, and most party leaders thought best to go with it. One senator of the United States refused. William Pitt Fessenden of Maine, believing the impeachment an attempt to introduce Spanish-American politics into this country, resolutely refused to obey the mandate of his party as expressed at its state convention, resisted the entreaties of friends and relatives, stood firmly against the measure, and finally, by his example and his vote, defeated it. It was an example of

Spartan fortitude, of Roman heroism worthy to be chronicled by Plutarch. How was it chronicled? It happened to me to be traveling in Germany at that time, and naturally I watched closely for the result of the impeachment proceedings. One morning, I took up the paper containing the news and read: 'The impeachment has been defeated; three senators were bribed.' And at the head of the list of the bribed senators was the name of Fessenden. The time will come when his statue will commemorate his great example."

On the other hand, he continued to receive abusive letters from unknown and angry persons, telling him he had been influenced by envious and corrupt motives; that he had lost the respect and confidence of Republicans, and was now consorting with copperheads and rebels, and the Republican papers of his own city did not spare the lash. One of its articles cut him to the quick, but he made no outward sign, though writing to his son: —

"Who wrote '&' in Friday's 'Press'? It is a most malignant and insidious article, while professing great fairness, designed under a specious garb to do me as much injury as possible. I should like to know who the author is, and to remember him. I am surprised that Richardson should have admitted such an article, if he could help it. It is very kind of the author to admit that I am probably not corrupt, or bribed, and to impute to me a meanness of motive which equally unfits me for a legislator. The writer misstates facts, also, most grossly. In the first place, I never styled myself a conservative, or was called so until denounced by Wade, Chandler, and others because I would not support their impeachment schemes. I have acted straight with the party, though disapproving some of its extreme measures.

"Looking over the 'Globe' since 1861, you will find

several speeches on leading party topics, one of which (which one exactly, I do not now remember) was largely circulated. Notwithstanding that my time was engrossed by financial labors which fell heavily on me, I reviewed severely Johnson's speech of February, 1866, and though overwhelmed with my finance committee work, was compelled to take the head of the reconstruction committee, and wrote its report, which was the campaign document of 1866. I always refused ever to be spoken of as a candidate for president or vice-president, and was not otherwise a candidate for Mr. Wade's place than to say, when asked by others, that I had no desire for the place, but would take it if desired by the Senate, but would not go into a contest against anybody. All these things are grossly misstated. The writer of ' & ' is a knave or a fool.

"Mr. Johnson has no patronage left. The Senate checkmates him. How ridiculous to suppose such an absurd motive!

"I write these things to enlighten you, and for no other reason, for I suppose all such imputations must be borne patiently."

He had hardly returned to his home after the summer adjournment when the political campaign opened. The state election was to be held on the 14th of September. Maine was one of the first States to vote. The National Republican Convention had unanimously nominated General Grant for president, and had adopted for its platform the two great principles of equal political rights for all, and the maintenance of the public faith in the financial obligations of the government. The Democrats had nominated Seymour and Blair, and had adopted a platform which denied both of the Republican propositions. They denounced the reconstruction acts as unconstitutional, and having formerly denied the power of Congress

to issue paper money to carry on the war, they now declared the right of the government to pay off its coin bonds in that depreciated paper currency. Upon these issues the election was to be fought. No man had borne a greater part in the measures of finance and reconstruction than Mr. Fessenden. There was the deepest interest to know what course he would take. Some thought he might refuse to sustain the Republican ticket on account of the abuse which Republicans had heaped upon him. But he entered the campaign at once. No sooner had he arrived in Portland than numerous invitations to speak poured in upon him from all sections of the State. The alarm caused by the Democratic doctrine of paying the coin bonds of the United States in greenbacks impelled many financiers in the great cities to urge him to speak upon the financial issues. Leading newspapers requested a copy of his first speech in advance for publication. This he could not furnish, as he did not write out his speeches. Grant clubs had been formed in all the principal cities of Maine, and Portland, Bangor, Bath, Augusta, Lewiston, Auburn, Biddeford, Bucksport, and numerous towns solicited him to address them upon the political issues of the campaign. These invitations were reinforced by appeals from citizens outside of the State as well as in it.

On the evening of August 31 Mr. Fessenden spoke to the citizens of Portland. The excitement of the election and the angry feeling engendered by his action on the impeachment of the President called out an immense audience. The great city hall was packed. Thomas B. Reed, then a young man just entering public life, and a staunch friend of Mr. Fessenden, was an interested spectator. In his oration on the one hundredth anniversary of the incorporation of the town of Portland, eighteen years afterwards, he thus described the meeting:—

“The most impressive scene I ever witnessed took place in this very hall. Here almost on the very spot where I now stand, William Pitt Fessenden stood before the constituency which had loved and honored him for so many years. The hall was black with the thronging multitude. It was at the beginning of a great presidential campaign, the last he was ever to witness. The great problem of reconstruction was to be reviewed. Mr. Fessenden had been the master spirit in its solution. The war debt was to be assailed — Mr. Fessenden had been chairman of the committee on finance and Secretary of the Treasury. To all this was added the intense personal interest of his recent defeat of the impeachment of Andrew Johnson. With full knowledge of the storm about him, but with the courage of perfect conviction, he faced the responsibility. The occasion was a great one, but the man was greater than the occasion. Calmly ignoring, except in one sharp, incisive sentence, all that was personal, with his old vigor, terseness, and simplicity he explained to his townsmen the momentous issues of the campaign. From the moment he began, the party rage commenced to cease, and the old pride in his greatness and honesty began to take its place. How strong he looked that night! Although all the world might falter, you knew that calm face would be steadfast. To him had happened the rare good fortune of having the courage and character which matched a great opportunity. Few men would have been so brave, and fewer still successful.”

When Mr. Fessenden stood up, he received so warm a welcome that he paused to control his emotion. He said he had doubted whether his voice any longer had power with his fellow citizens, but their welcome had dispelled any apprehensions of that sort. They would remember that when he entered the Senate the great question which

touched all hearts was the extension of slavery. They would remember that he and those with whom he acted were determined to stay its progress over the land. They would remember the election of Abraham Lincoln, the threats of war which followed, and the tempest of ruin which swept over the country. Were they to stop and be trampled on because they sought to prevent the spread of slavery? They determined to meet rebellion and civil war, and it was found the people had the great qualities necessary to meet the issue.

The Republican party took the government under unparalleled circumstances, with a great war impending. Most of its leaders were untried men. President Lincoln was a sample, a clear-headed, honest man, whom Providence seemed to have raised for the occasion. The country had been stripped of the means of defense or aggression. Everything had to be created, and there was an enemy at the gates of the Capitol, long prepared for rebellion.

The Republican party had to contend not only with a determined enemy in the South, but with the Democratic party at home. He would speak respectfully of the Democratic party because it had of late spoken respectfully of him. (Laughter.) Though that party had many noble spirits who fought for the government, yet the Democratic organization, state and national, was an enemy. The North succeeded in the contest, but the contest left a legacy. One thing it did was to destroy African slavery. This was done against the opposition of the Democratic party. The people would in time become alike in their interests, sympathies, and feelings, which was impossible while slavery remained. They would soon become a united and prosperous people.

But they could not carry on such a great war for four years without borrowing vast sums of money. They had

been obliged to contract a great debt. The Democratic party had compelled the Republicans to contract it, and that party must be held responsible for it. How was that debt contracted? The government borrowed money, and now both parties said it must be paid. The great question was, how should it be paid? The Republican party declared it must be paid not only according to the letter, but the spirit of the contract. What was the spirit of that promise? No nation ever carried on a great war on a gold basis. Gold had disappeared early in the contest, and the government decided to issue its paper promises. Those promises read in this way: "The United States promise to pay ten dollars." The law said a dollar consisted of so many grains of gold or so many grains of silver. A dollar represented value. Did that promise mean that the government never meant to pay? That that promise was to be succeeded *ad infinitum* by other pieces of paper? Had he supposed so he never would have voted for the bill, although he reported it.

In February, 1862, Congress passed the law to issue promises, — greenbacks, as they were called, — and decreed they should be legal tender. He had doubted the expediency of making them a legal tender and he made a speech against it. But Congress, in order to give these promises a currency circulation, decreed they should be a legal tender. It was now agreed that inasmuch as the law said that these paper promises should be legal tender for all public and private debts, except the interest on the government bonds and the customs duties, therefore the principal of these bonds should be paid off in these paper promises. The next section of this very law provided that people who had these promises should have the right to invest them in the public bonds which promised to pay their interest in coin, and their principal in twenty years.

The Democrats claimed that it was never meant to pay the principal in coin. Was it to be supposed that Congress meant to pay the bonds after twenty years in depreciated paper? The provision to pay the interest in coin was to secure its payment in coin during the war, and not to make a distinction between interest and principal.

The provision that the bonds might be redeemed in five years was inserted because Congress thought the war would then be over, and if the government could not pay the bonds it could renew them at a lower rate of interest. Now the Democratic party proposes to take advantage of this five years' stipulation and pay off the bonds with more promises. This would be a violation of the spirit of the contract. There was another argument against paying the bonds in more greenbacks. Congress provided by law for setting aside a fund of coin from the duties on imports with which to pay the principal of the bonds. In the debate every man stated that principal and interest were to be paid in coin. Secretary Chase had stated it publicly in a letter. Everybody at that time so understood it.

When he took the Treasury it was at its last gasp. One hundred millions were overdue and one hundred millions more would come due within two months. "It was," said Mr. Fessenden, "the tightest place I ever was in except when I was obliged to vote to keep the President in office. I appealed to the people for a loan, and I authorized my agents to say that the principal of the fifty-two bonds would be paid in gold." That was what the people of this country and of foreign countries thought they were contracting for.

The Democratic doctrine was to pay the government with its discredited paper. The Democrats would issue enormous quantities of paper worth little or nothing,

and pay the debt with it. They would keep on giving promises, year after year, continually growing less in value, and there was no justice and no honesty in the doctrine. The Republicans acted upon no such miserable quibble. They proposed first to bring the greenbacks up so that a paper dollar would be worth as much as a gold or silver dollar and then pay the debt. There was but one way to deal with this question, and that was for the government to pay its debts and redeem its obligations in good faith, in common honesty, in the face of the world, and in the spirit as well as the letter of the contract. A nation that had put a million of men in the field, and had raised thousands of millions of dollars to support them there, could not afford to stand dishonored in the eyes of the world by saying, "I will not pay the expenses of the battles I have fought." In closing this part of his speech, he said, "Discharge at once and forever all idea of tampering with your obligations. If anybody advises you to repudiate, repudiate the repudiator; whether he belongs to the Democratic party or to the Republican party, whether he lives in Ohio or in Massachusetts, repudiate him. He is unworthy of the confidence of an honest, God-fearing, intelligent people."

Mr Fessenden then discussed the great question of the readmission of the Southern States into the Union. The Confederate States had gone out of the Union and made war upon the national government, and by doing so had lost all the rights they ever possessed under that government. They had no rights except the rights that remained to them under the laws of war. The first question was the status of the colored people; were they to be citizens of the republic? He had favored a proposition which declared inoperative and void any provision in the Constitution or laws of a State whereby any distinction was

made in political or civil rights on account of race, creed, or color. He did not wish to hurry the rebel States back into the Union. He would offer them a fair proposition, and if they did not choose to accept it, he would let them stay out of the Union until they did. Though called a conservative, his proposition was thought to be too strong, and the committee adopted another which excluded from the basis of representation all persons denied the elective franchise on account of race, creed, or color. This was defeated in the Senate by the vote of all the Democrats, the Johnson senators, and nine Republicans. Finally a proposition not so good was adopted. This was the Fourteenth Amendment, which, besides the subject of representation, settled the question of citizenship, provided for the payment of the public debt, and against the payment of the rebel debt, and excluded certain leading rebels from office. These terms were reasonable, and were only sufficient guarantees against future evils. Yet the Democrats were complaining of their severity, and the rebels were weeping over the loss of power. He reserved *his* tears for those who fell in defense of their country.

The question that remained with regard to the Southern States was, Shall the work of reconstruction be sustained? The Republican platform says it shall be permanent. The Democratic platform declares the reconstruction measures are unconstitutional, and must be overthrown. He had faith that the people who had carried the country through a great war would now go forward in the performance of their duties without flinching.

At the close of his speech, cheers were given for the senator, and the great audience slowly dispersed. The newspapers said:—

“The Democrats had hoped that Mr. Fessenden would

play the part of Achilles, and suffer the enemy to gather the spoils of the field. They could not have been more mistaken. Mr. Fessenden had gone into the field with a spirit that could not be surpassed, and had set an example of magnanimity and political fidelity that others would do well to follow."

The election in Maine resulted in a sweeping Republican victory. As soon as it was over Mr. Fessenden received numerous invitations to speak in New England, New York, Ohio, and the West. He was especially called upon by leading financiers to speak upon the finances. Governor Morgan, with many others, urged him to speak in New York city. These requests were declined, for he was in need of rest, and he disliked speaking outside of his own State.

Writing on the evening before the election to F. H. Morse in London, he said : —

"We have had the most active and exciting campaign I have known. The result is of great consequence, and I think it will be satisfactory. Our great danger arises from the reconstructed rebel States. Were these all out, the fight would be a mere matter of form. I got my name of conservative by advising against the reconstruction acts. It seemed to me, that when we had proposed the Fourteenth Amendment, the rebel States had rejected it, and we had provided military protection for our friends, enough was done by Congress towards reconstruction, and we had better leave the matter where it was until the people of those States asked for admission in proper form. Our furious radical friends, however, thought that they could secure the votes of all those States through the aid of the negroes. My opinion was that, once recognized, the wealth and intelligence of the State would rule them, and we had better let them stay out until after this election. I believe

that now these gentlemen regret that in this particular they were not as conservative as I was.

"Virginia, Mississippi, and Texas are not reconstructed. Should they vote, as they probably will, in some shape, and it is found that their votes would elect Seymour, we may have trouble. I hope such a complication may not occur.

"As to the impeachment folly, every sensible man admits that its failure saved the party, or rather that its success would have ruined us. The sober truth is, there was no decent ground for an impeachment, and the people were goaded to madness by bad and weak men. Nevertheless, I voted for acquittal reluctantly, for I saw and felt the storm and would gladly have avoided it. In my judgment had senators voted according to their honest convictions, freed from the pressure of outside opinion, impeachment would have proved a fizzle. But cowardice ruled the hour."

He was obliged to decline the invitation to address the great Ohio mass meeting at Cleveland on October 8, and replied as follows:—

PORTLAND, October 3, 1868.

W. N. HUDSON, Secretary, etc.,—I sincerely regret my inability to be with you at the proposed mass meeting in Cleveland. Having long contemplated a visit to that section of the country, I should be happy to avail myself of so favorable an occasion to make it.

We are all just now looking to Ohio with peculiar interest. One of her most prominent sons claims to be the originator of a financial doctrine which the Democratic party has adopted in its platform, and which I cannot but consider as at war with the plainest principles of common honesty. Maine has spoken her opinion in terms not to be misunderstood. It remains to be seen what Ohio thinks

of it. For the honor of that magnificent State, as well as for the national credit, it is to be hoped her voice will be equally loud and emphatic. Permit me to say that upon this particular point Ohio is compelled to bear a peculiar responsibility. On a question of such vital importance to the character and welfare of this great people, I think nothing but the highest ground can be taken consistently with either national or party honor. The tone of the Republican platform in this particular is beyond all praise. The men who made it scorned all compromise with repudiation as unworthy the character and principles of that great party which had conducted the nation through the perils of a mighty war. Anything short of the payment of the national debt in good faith, according to the understanding of those who contracted it, is, in its essence, repudiation, however it may be disguised. The evils which would flow from such an attempt are even greater than defeat in a conflict of arms. A people which has justly forfeited the respect of mankind has nothing left worthy of preservation.

“When faith is gone and honor lost
The man is dead.”

I trust, therefore, that in Ohio, as in Maine, this campaign will be conducted throughout upon the principle of open defiance to all such demoralizing doctrines, whatever shape they may assume. In civil as in military life, courage in the right doctrine, faith in a good cause, and confidence in the people, will prevail as well against the arts of the demagogue as against rebels in arms.

I will not touch upon the other great issue involved in the coming election. None of us can fail to understand it, and to feel its importance. We all know that upon it depends the question of quiet or confusion, of order or disorder, of peace or war. With such an issue awaiting

popular decision, it is plainly the duty of every man to spare no effort to save his country from the calamity of a Democratic triumph. Happily, if we do our whole duty, success is sure. That Ohio will be able to claim an enviable share in the coming victory, I have the most abiding confidence.

Very truly yours,

W. P. FESSENDEN.

Congress assembled on December 7. Mr. Fessenden found most of his indignant Republican associates had survived their disappointment, and nearly every one was disposed to be friendly. What most amused him was the great cordiality of several members of Congress who would hardly speak to him after impeachment.

Concerning the various rumors about the new Cabinet of the incoming President, he, Fessenden, wrote: —

“It is said that General Grant wishes to continue Schofield as Secretary of War, and to appoint Porter Secretary of the Navy. Public opinion, however, is so much against it that it is doubtful whether he will do so. I think Schofield an excellent secretary, but my own opinion is decidedly adverse to the policy of confounding the military and civil services. They had better be kept distinct. It is enough to have military Presidents, but these the people will have.

“This has been a mischievous Congress, and I shall breathe more freely when the fourth of March comes. All sorts of schemes are on foot for depleting the Treasury, and I fear that some of them may succeed. It is said that General Grant sets his face against all new undertakings until our national debt becomes less burdensome. If so, it affords new proof of his sagacity and patriotism. Nobody can even guess who he will select for his Cabinet. It is believed that Mr. Sumner is desirous of being Secre-

tary of State. Although I dislike the man, I do not think it would be a bad appointment, as he is well qualified for the position and very cautious. Still, I doubt if he would suit General Grant."

The first party debate of the session occurred on December 15. It was over the proposition to repeal the act which prohibited the States lately in rebellion from maintaining a militia. Mr. Hendricks opposed the repeal, which he asserted was proposed with the view of extending an odious system of government. The militia force which Mr. Hendricks condemned was the militia organized by the governments of the reconstructed States, and was in the hands of the Republicans.

Mr. Fessenden said he thought the true reason of the law it was now proposed to repeal was the general distrust of the loyal character of the governments first organized in the rebel States after the Rebellion, and the danger of putting an armed militia under their control. The senator from Indiana had forgotten that the grossest enormities had been committed in those States which no force of the state or general government had been able to put down. The States not yet reconstructed needed a militia force. Such a force was especially needed in Texas. Congress had, for the sake of economy, reduced the army too much, and there was no force adequate to put down the outrages perpetrated upon the loyal people. Unless Congress lodged a military power with somebody to repress violence by force, it would see no end to existing trouble.

After considerable debate, the Senate passed the act to permit the reconstructed States to organize the militia, but refused to extend it to those States which were not yet reorganized.

One of the most important debates of the session in which Mr. Fessenden participated was the bill to pay Sue

Murphy for the destruction of her buildings at Decatur, Alabama. Miss Murphy was the daughter of a former officer in the United States army, and was loyal. Her buildings were destroyed in pursuance of orders to fortify Decatur. General Thomas vouched for her loyalty and recommended the payment of her claim. The committee on claims had reported unanimously in her favor. Senators Howe and Anthony supported the bill. Senator Fessenden opposed the bill, saying he thought it would lead to an exhausting drain upon our financial resources, and, perhaps, double the public debt. In a short but emphatic speech he pointed out the consequences of establishing such a dangerous precedent, and stated the rule of the laws of war governing the case.

He presumed this was a very hard case, and as the lady was loyal it was natural that it should excite much good feeling. He could not vote for it as it would establish a precedent that would, to say the least, lead to an exhausting drain upon the Treasury. What propriety was there in paying for property taken in this way? The army was in an enemy's country, had taken possession of it by force of arms, and had found it necessary in its military operations to demolish a house for military defense. He did not know it could be established that whenever a hostile force in an enemy's country took possession of property for military defense, it could be called upon to pay for it. By passing the bill, Congress would establish the principle that wherever the armies went in this hostile territory, war being flagrant, and found it necessary to take possession of what must be considered enemy's property for purposes of defense, it must be all paid for. There would be no end of such claims if the door was once opened. He said these things reluctantly, for he had seen the young lady, had heard all the circumstances, and

his sensibilities would lead him to vote for the bill. But the bill was of a dangerous character, and they could not defend themselves before the country if they began to pay such claims.

Mr. Hendricks said if it had been in the North, he supposed, if the buildings had been taken for such a purpose, that no one would say he could not vote for her. Was it any less just that she was from Alabama? He did not admit the law to be as stated by the senator from Maine. He knew that in a war between independent nations each citizen was an enemy of the other nation. But in the Rebellion it was the doctrine of the government that it was not a war by sovereign States, but by insurgent inhabitants of States, and only those citizens were enemies who made themselves so. Those who were loyal were friends, and he would not adopt the doctrine of a war between independent nations as applicable to the war between the States.

Mr. Fessenden replied, the senator from Indiana could not be aware that the Supreme Court had decided that in all matters relating to the ordinary incidents of war as between nation and nation, the same rules and the same consequences were applicable to the States in rebellion, after the war was declared and understood, that would exist between two independent nations. That doctrine was established, and none other could, with propriety, be applied to that contest. The consequences would be, if loyal persons could recover their property thus taken, that everybody who did not take an active part in hostilities would prove their loyalty during the war, and would recover their claim against the government for property taken or destroyed by the Union armies.

Destruction of property was an incident of war, whether between two independent nations, or between a nation

and a portion of its people who have, for a time, made themselves independent and established a government. There was no distinction between them as to the consequences of warfare. If this distinction was made, and this precedent set, the debt would be doubled. Citizens of the South would claim compensation for the slaves emancipated by the war except for the constitutional amendment, no more applicable to that than to anything else.

The senator from Indiana, in the view he took of all questions arising out of the war, might be right in his view of this case. It had been the Democratic doctrine that there was no war, only an insurrection of a portion of the people who undertook to oppose the execution of the law. Under this doctrine one could advocate the claims of everybody who did not actually take part in rebellion. It would be one of the things that would make the war and its consequences unpopular with the people by heaping upon them burdens of this description.

He hoped the Senate would pause before it established a precedent fraught with extreme danger and extreme consequences.

These remarks, made as soon as the bill was taken up, awakened the Senate to the real magnitude of the measure, which, instead of being a private claim for seven thousand dollars, would establish a precedent for boundless demands upon the Treasury. The bill was continued for further discussion. Many senators gave it careful study, learned speeches upon the laws of war were delivered, nearly one half of the Senate spoke upon the question, and after a month of constant debate the bill was referred back to the committee. The committee never reported.

The session was marked by the passage of the Fifteenth Amendment. This planted impartial suffrage in the Con-

stitution. It was in effect adopting Mr. Fessenden's first proposition to the committee on reconstruction.

The similarity of the Fifteenth Amendment to Mr. Fessenden's proposition in 1866 will be seen by comparing the language of the two. The Fifteenth Amendment reads: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Mr. Fessenden's proposition was even more sweeping: "Any provision in the Constitution or laws of any State, whereby any distinction is made in political or civil rights on account of race, creed, or color, shall be inoperative and void."

In the debate over the suffrage amendment, on February 9, Senator Fessenden said that the senator from Wisconsin had made a remark which might place him, Mr. Fessenden, in a false position before the country. It conveyed the idea that he had opposed the extension of the franchise to the colored people. There could be no greater mistake. It would be remembered that he was chairman of the joint committee on reconstruction. There the subject of the basis of representation came up early. It was in fact the first question. A sub-committee was selected to report to the general committee some proposition as a basis of representation. He was also the chairman of the sub-committee. He reported to the general committee two propositions, one declaring that representatives should be apportioned according to the number of citizens of the United States in each State, and that any provision in the laws or Constitution of any State whereby any distinction was made in civil or political privileges on account of race, creed, or color, should be inoperative and void. The other proposition reported was what was known as the Blaine amendment, which pro-

vided that whenever the elective franchise should be denied or abridged on account of race, creed, or color, all persons of such race, creed, or color should be excluded from the basis of representation. He, Fessenden, drew the first proposition. But the committee adopted the second proposition to be reported to Congress, by a vote of eleven to three. When he reported the proposition adopted, he stated that it was not his proposition, though he felt obliged to sustain it as the decision of the committee, but he preferred a proposition that abolished all distinctions on account of race, creed, or color. His opinion was that all these side propositions which went only half way, which provided modes of escape, partly limiting the evil, would be found without that effect which they were designed to produce, and it was better to strike at once at the root of the evil.

But the majority thought his own proposition could not be carried, and directed him to report the Blaine amendment.

As finally passed, the Fifteenth Amendment was exactly in line with Mr. Fessenden's proposition in the committee on reconstruction for the Fourteenth Amendment.

After the war, a devoted Union man from Virginia, who had suffered for his faith, met Mr. Fessenden in Washington. The two earnestly discussed the best plan for the restoration of harmony. The Southerner had been an abolitionist at heart, and rejoiced in the destruction of slavery. But he was still so much influenced by habits of thought created by the influence of slavery that he opposed every plan for making the ex-slaves citizens of the country. After much patient discussion, Mr. Fessenden quietly remarked to his Southern friend: "Mr. B——, do you know that you have no idea of *your* rights that does not involve depriving another of *his* rights?"

The victory of the Republicans in the national election, on the platform of maintaining the public faith against the greenback heresy, created a general desire in Congress to pass a measure pledging the payment of the five-twenty bonds in coin. On February 26 the finance committee reported the bill to strengthen the public credit. The bill declared that to remove any doubt of the purpose of the government to discharge its just obligations to the public creditors, and to settle conflicting interpretations of the laws, it was hereby provided that the faith of the United States was pledged to the payment in coin or its equivalent of the interest-bearing obligations of the United States, except in those cases where the law authorized their payment in lawful money by express provision.

Senators Sherman and Morton had both argued that by the terms of the law under which the gold-bearing bonds were issued, the principal of the bonds could be paid in greenbacks, though Sherman had said it would not be right to do it. Senator Doolittle had argued in favor of a measure for the United States to sell its bonds, buy gold with the proceeds, and with the gold buy up its own depreciated paper and pay off its bonds with such paper. There were several propositions, all looking to the evasion of the payment of the bonds in gold. Mr. Fessenden looked upon all of them as departures from straight-forward dealing, as injurious of the public credit, and as contrary to the spirit and plain intent to the law. The debate was a long one, and it was late at night when Mr. Fessenden took the floor.

He said if the Senate would excuse him for speaking at that late hour, he wished to say a word or two, because he had heard doctrines advanced to which he could not assent, and, as he was connected with the enactment of the law, he felt an interest that it should not be perverted.

“The senator from Indiana (Hendricks) has charged the Republican party with passing that bill with the design of issuing a depreciated currency.” There was no foundation for the statement.

When these notes were authorized, the government could no longer obtain gold. It was necessary to have a currency that would pass as money for all the uses of the war, and with which the taxes might be collected. It was with that design that the promises to pay were issued. It was a foul reproach upon the character of the people and of Congress to say that when they issued their promises to pay so many dollars they meant to pay less. They endeavored to guard against the possibility of it. They provided that these promises, thus issued, might be turned into a bond which should pay so many dollars and a certain amount of interest, and that the interest should be paid in gold. Was it the design that that should be depreciated paper? That less should be paid for it than it bore on its face? Did they mean to pay sixty cents when they said they would pay a dollar? The idea would have been repudiated as a reproach and a scandal, and for a senator to say that the United States issued their promises to pay with the design of defrauding the public is without the slightest foundation in fact. He, Fessenden, meant what he said, and Congress meant what it said, when it promised to pay so many dollars. A dollar was defined by statute. It was gold and silver coin. That was the promise, and the United States meant to perform it.

Mr. Fessenden said he did not design to go into the argument, but he protested against the idea that the senators from Ohio and Indiana (Sherman and Morton) should be held as representing the United States because their opinions were one way. It had been argued by those

senators, and by the senator from Wisconsin (Doolittle), as if the words of the former were law to the country. They were not the law for him (Fessenden). The senators from Ohio and Indiana argued that the bill was making a new contract. He had the greatest respect for both of those senators; but they could not get up and argue at one another, and let anybody else found an argument that, because they thought so, therefore everybody else must think so. Yet that was the style of argument adopted between themselves, that they were to settle this question, and because they have given these opinions, one is reproaching the other and holding him to it, as if that was the conclusion of the country and Congress. He undertook to say that by the ordinary rules for construing statutes there was no doubt about the meaning of the statute, and that was that the principal and interest should be paid in coin.

Gentlemen founded their argument on the fact that only the interest was mentioned as payable in coin. But let them take the statute together and their construction would render it ridiculous. The statute allowed persons to exchange their greenbacks for a bond bearing interest payable in coin. If the bond was payable in greenbacks, all a person would have to do would be to go to the Treasury and exchange his bond for greenbacks, and then go to the other side of the Treasury and exchange his greenbacks for a bond. This he could do every five minutes in the day. It was not till long after the statute was passed that the law allowing the conversion of greenbacks into a bond was repealed. The statute must be construed as it stood before any subsequent statute was passed. It was sticking in a word against the whole spirit and the whole meaning of that law. He would not argue over it at length, because it was too late at night. He had risen to enter his

protest against the opinions of those senators going out to the country as the sense of the body.

The senator from Wisconsin (Doolittle) proposed to issue bonds and go into a foreign market and borrow gold, then buy up the depreciated paper of the United States with that gold, and with that depreciated paper pay off the six per cent bonds. If a merchant dealt in that way he would be called a cheat. No one would trust him. It was nothing but flat knavery, and when it was put forth by the Democratic party as a new phase of the doctrine of repudiation, which the people repudiated in the last canvass, he hoped it would meet the same fate.

Mr. Dixon asked Mr. Fessenden if it was more knavery coming from the senator from Wisconsin than when it came from the senator from Indiana (Morton)?

Mr. Fessenden replied that he did not hear the senator from Indiana propound the doctrine, but did hear the senator from Wisconsin propound it, and from what he had heard in this debate, from sundry gentlemen of the Democratic party, he saw it was to be their platform hereafter.

Mr. Dixon here rose and Mr. Fessenden said: "Not my friend. I desire to exclude him, for he has put himself upon a proper platform. I only hope that with the company around him he may be able to stand upon it." (Laughter.) Mr. Dixon, though acting with the Democrats, had spoken on the side of the Republicans on this question.

Mr. Dixon again asked if the doctrine was not as objectionable coming from the senators from Ohio and Indiana as from a senator called Democratic?

Mr. Fessenden answered that there was a wonderful difference between the theory and practice of knavery. The senators from Ohio and Indiana had argued that,

according to the strict letter of the law, they had a right to pay the bonds in greenbacks, but they took a higher ground and maintained that the bonds ought not to be paid in greenbacks, but that the credit of the government should be brought up to that point where the greenbacks were equal to gold. The senator from Wisconsin took the ground that the government *should* issue its bonds at a lower rate of interest, go into the London market and get gold, come back with this gold, buy up the depreciated greenbacks, and with these pay off the six per cent bonds. That was an entirely different proposition. He characterized that as dishonest in its nature and essence, and an individual doing so would lose his credit as an honest man. He hoped his country would not lose its integrity by resorting to such a plan.

The bills before the Senate had his approbation altogether. He had never had any doubt about the true meaning of the law under which these bonds were issued. He had favored this declaration, not that it made a new contract, not that it incurred a new obligation, but since a great party had taken the ground that the country ought not thus to deal with its contracts, and as two distinguished senators had taken the ground that the government had a right so to act, he wished to dissipate all such clouds as were overshadowing the credit of the country. He wished to put it on the broad ground that by the original contract, according to any true legal construction of it, these bonds must be paid in gold; and also upon the fact that the officers of the government had so declared with the approbation of the people; and that inasmuch as they did that, the present declaration was now made that they who represented the great party which originated this debt, and from the necessities of the case borrowed this money and promised to pay it,

would keep their faith intact. If senators on the other side proposed to go before the people with the declaration that the government was not bound in law or honor to pay the dollars that were promised, he wished Congress to speak on that subject, and say that until some other set of men acquired the power to rule these halls they would keep the faith of this government on the proud eminence where it had stood unshaken by any efforts to break it down, unshaken, even, by the mistaken ideas of excellent gentlemen who were mistaken about a matter so vital to the welfare of the people.

His friend from Ohio (Sherman) began wrong when he adopted any such ideas. That original error had tainted his excellent mind and great knowledge of the subject all through. He was glad to see it had not tainted his perceptions of right, and that whatever might be his construction of the contract, he wished the people to discharge their obligations in full faith and honor. The bill was a proof that all error on the subject was vanishing, and the point had been reached when there was no longer any doubt that the people meant to preserve their credit, keep their faith, discharge all their obligations according to the spirit as well as the letter of the law, and not be deluded by the idea that a party could rule in Congress which sought to flatter and deceive the people into false notions of what constituted the public faith.

The speech was unexpected, and was a protest against the false and timid ideas which were advanced by some Republicans against the honest payment of the debt. A noted correspondent, describing the scene, said "it was one of the most telling speeches Mr. Fessenden had ever uttered upon the Senate floor; that the Maine statesman roused like a blooded racing charger to his last full bent, poured out on the Senate, under the glow of the midnight

lamps, his most eloquent, fervid speech for years. The old members of the Senate gathered around him at its close, assuring him he had equaled his best things." The same writer, speaking of Mr. Fessenden's power over the Senate, said his character "was all grit and his intellect was all fibre; that he was as high-strung as a duke, and that no tenure of opinion could, with him, qualify or excuse any deviation from the perpendicular."

The bill passed the Senate by a vote of 31 to 16; but failed to pass the House. It was immediately brought forward again in the special session of the next Congress, which met on March 4, and was passed without debate by both houses, and approved by General Grant, who had now become President.

He writes home at this time: "Things are in a queer state about the Cabinet, General Grant keeping his own secret to perfection. I think the difficulty is in deciding who are to be Secretary of State and of the Treasury. One of these will probably go to New England—in the general opinion. Opinions vary from day to day. Sumner has never been supposed to have a chance. Motley was the favorite here for a few days. Then came Governor Fish—then Mr. Hobb. To-day I have been the man. To-morrow it will probably be somebody else. The truth is, nobody has any good ground for a sound opinion, and I should not be surprised if General Grant should surprise everybody. I sincerely hope that he will not think of me for any office, as I want none, and an offer would embarrass me. The salary is not sufficient to live on, and I think, after all, that Sumner would be about as good a selection as could be made for Secretary of State, so far as fitness for the part is concerned."

The Fortieth Congress adjourned March 4, at the moment Vice-President Colfax entered the chamber to take

the oath of office and open the first session of the Forty-first Congress. The session lasted until the 23d of April. In the rearrangement of the committees, Mr. Fessenden was urged to take the chairmanship of the committee on appropriations, and he accepted it. In addition to this chairmanship, he was made second on the committee on foreign relations, and a member of the committee on the library.

One of the first measures to come before Congress was the repeal of the Tenure of Office Act. In the debate on March 6, Mr. Fessenden said he should vote for the repeal of this law, but not because a vote otherwise would exhibit a distrust of the President. He would vote for the repeal because he did not approve of the bill when passed. He foresaw and foretold that it would be attended with more evil than good, and therefore withheld his vote, though he did not choose to differ with the great majority of his friends in the action they had decided upon. He did not believe it to be unconstitutional. On the contrary, he still thought that Congress had the right to impose upon the President the restrictions of that act. But he thought they had a sufficient check upon the action of the President to withhold their consent to his nominations. The law in his opinion was unnecessary except for the particular occasion, and he was not in the habit of framing his legislation for particular occasions unless absolutely necessary.

During the civil war, the British steamer *Labuan*, having been wrongfully captured by a United States warship and sent in as prize of war, it was decided by the United States courts that the capture was illegal. A bill came up on March 19, which proposed, in accordance with international usage, to pay to the owners of the vessel and cargo their value and interest. Mr. Stewart of

Nevada opposed the measure on the ground that as the United States had claims against Great Britain, no British subject should be paid for any claim against the United States.

Mr. Fessenden expressed his surprise at the doctrine enunciated by the senator from Nevada. While the United States was at war with a portion of its own citizens, certain British ships, pursuing their lawful commerce, were seized by the cruisers of the United States, and the United States courts had decided that those seizures were wrongful, and had decreed restitution. To say that the sums thus adjudicated by the United States courts to be due shall not be paid because certain wrongs committed by private citizens of Great Britain upon United States commerce remain unredressed was to assume a ground not tenable either in law or equity. Nor was it consistent with national honor and national obligation. A refusal to right those cases could not be justified under the laws of nations. It was not consistent with honor or honesty to refuse to make proper reparation because there were unsettled questions with that government.

Mr. Sherman's bill relating to the national banks and the currency having failed to pass the preceding Congress, he introduced it again on March 6, and on the 9th reported it from the finance committee. The bill was the same as the former one with an additional section, which provided for the withdrawal of twenty millions of bank circulation from the New England States, which had received more than their proportionate share, and its redistribution among the Southern and Western States, which lacked circulation.

Mr. Fessenden thought it was unjust under these circumstances to take away from the New England banks any of their currency. To the argument by Sherman and

Morton that the circulation already issued to the New England banks could be withdrawn, because Congress had reserved the right amend the act, he replied that the proposed change was violating a contract made with one individual for the benefit of another. The right to amend the act means simply that Congress retained the power to protect itself, to prevent abuses. It did not reserve the power to pick out one individual and tell him that he should not enjoy the benefits of the law, while others were not touched.

The bill again passed the Senate, but failed to become a law at this session, in the House.

In the course of the debate, when it was proposed to relieve the South and the West by increasing the bank circulation, it was answered that it would not be popular. And when it was suggested that it might be done without injury to the country, by withdrawing the greenbacks proportionately to the increase of the bank circulation, it was replied that that, too, would be unpopular. In answer to this Mr. Fessenden said, the question for them, as legislators, was whether they would choose a mode that was not popular in doing what they ought to do, or would take a mode which violated the rights of individuals. Having recently seen too much disposition to yield to public clamor, he was less disposed than ever to treat with patience those arguments upon financial questions which he suspected were made in deference to erroneous public opinion.

A special session of the Senate followed. Its only business was to confirm appointments. Mr. Fessenden's last debate was on the 21st of April, upon the subject of appointments to office. The secession of the Southern States had occasioned many removals from office, and this, with the vast increase of clerks in the departments,

had caused a greater proportion of appointments from the Atlantic States. The Southern and Western States felt that they did not have their share. Mr. Carpenter offered a resolution calling upon the heads of departments to furnish the names, age, and compensation of the clerks, the States from which they were appointed, how long they had resided in those States, and by whose recommendation they had been appointed. Mr. Trumbull regarded the manner of appointment to office as a great evil. Senators had become mere solicitors at the departments. He thanked the senator from Wisconsin for his resolution.

Mr. Fessenden said he did not regard the resolution as so great a piece of patriotism as did the senator from Illinois. It seemed to him as aiming to ascertain whether one State had more clerks than another in proportion to population and to see that each State had its share. It should be remembered that for some time a portion of the States had been engaged in another business, which rendered it a little dangerous to employ their citizens. Now when other States had furnished clerks who had gone into the departments and perhaps unfitted themselves for other business, gentlemen were uneasy, and wanted a revolution at once, so as to obtain their share. If a change was to be made, it should be gradual. If the work of the departments was to be properly done, a large number of trained clerks could not be turned out at once, and a lot of green men put in their places. He had the idea that the principal thing was to get men capable of doing the work, and the more they had shown themselves fit for it the better it was for the government. Next to that he was willing to accede to the modern principle that the offices were made for the individuals and not for the State.

Upon his return to Maine, Mr. Fessenden found the movement to defeat his reelection was quietly going on. He received letters from many quarters pointing out this scheme, and inquiring as to his intentions of being a candidate. He had resolved to be a candidate, for he felt it a duty to be so, after the circumstances of the impeachment trial. On May 14 he wrote to a friend:—

“All I can now say in reply to your inquiry is that, at the present, I see no reason why I may not be a candidate for reelection. I am not conscious of having failed on any occasion to promote what I believed to be for the public good, or to advance the principles and true interests of the Republican party; nor do I perceive that my ability to serve the State has been lessened by age and experience.

“Nevertheless, although as at present advised I may probably desire a reelection, yet I shall have no wish, even were it in my power, to force myself upon the people, especially after the generous confidence and support I have received in the past. As a general rule, personal considerations should be of little weight in selections for office. If, therefore, when the proper time arrives, it shall seem to be the general opinion that, for whatever reason, the public good requires a change, I shall certainly have no complaint to utter. Should it happen that, after the passions of the hour have had time to cool, an unfavorable judgment shall be passed upon my official action on a recent exciting and important occasion, I shall regret such decision much more for its injurious, if not fatal, effect upon the integrity of public men, than for any consequences to myself. And it will, notwithstanding, be my earnest hope that the place I now occupy may be filled by one who will not fear to obey his own convictions of duty without regard to personal consequences; and who

with equal devotion to the public interests will possess greater ability to defend them.

“Meanwhile, it is most desirable that a question of such importance should be thoroughly canvassed and understood by those whose duty it will be to determine it. In this, as in all similar matters, the voice of the people should be fully and distinctly heard.”

On August 8 Mr. Fessenden wrote, for the last time, to his friend Grimes:—

“The election in Tennessee, the result of which you will know before this reaches you, is, in my judgment, but an indication of what we must expect in most of the rebel States at the next Presidential election. The result there, as in Virginia, is no more than every man of ordinary sagacity must have foreseen. I both foresaw and foretold it.

“Several local papers have taken occasion to attack me, counseling that no man be selected for the legislature who is not pledged against my reëlection. What the result will be I cannot foresee, and on my own account do not much care, for I am about tired of the whole thing. I shall be a candidate, for duty to myself and the State requires it of me. But I shall contend at some disadvantage, for I will not use the weapons that will be used against me. If money is to be used, be it so. It will not be used by me or for me. I will have no hand in corrupting legislative morals. If elected at all it must be on my merits, and because the people so decree. For corrupt and corrupting honors I have no desire. My hands are clean thus far, and I mean to keep them so. Any but an honest and high-minded people I have no desire to serve. If Maine prefers that her senators shall be selected by petty newspapers and office-seeking politicians, it is very clear that I shall not be one of them, nor, in such a case, do I wish to be.”

Many years had elapsed since Mr. Fessenden had visited the northeastern part of Maine. Partly for health and pleasure, and partly for political objects, he spent a portion of July in traveling with some friends through those counties. The journey was one of much enjoyment. The month of August was passed at home occupied with correspondents throughout the State upon the subject of his reelection in 1871. His term expired in March of that year. All the members of the legislature who were to be nominated for the first time in the autumn of 1869 would, by party usage, be entitled to a renomination in 1870, and would, therefore, be members of the legislature which would meet in January, 1871, and would choose his successor.

There still remained much of the anger and disappointment arising from his course on impeachment. It was evident that he was to meet a bitter opposition. Several of the Republican newspapers had already attacked him. The Bangor, Rockland, Calais, and Biddeford papers assailed him personally and politically. Others, while not opposing him, were not friendly. The leaders who were secretly opposing him were advising the selection of candidates for the legislature who were unpledged on the senatorial question, that they might be free to follow that course which would be most advantageous for the whole party. This meant that they might be free to support an opponent. Nor were Mr. Fessenden's friends idle. Besides his experienced political supporters, who were awake to the importance of securing the nomination to the legislature of men who favored his reelection, there were many leading citizens through the State who took the manly ground that his independent and fearless conduct in the impeachment trial should be sustained. These formed a large and influential element which had a great effect in creating a sound public opinion.

All the old accusations of cold manners, of ice-like dignity, of indifference to his friends, of favors to his family, were brought out anew and made to do service against him. But these were soon forgotten in his death. On the evening of August 31 he had a few friends at his house for a game of whist. Some light refreshments were taken after the game. Mr. Fessenden retired as well as usual. At midnight he called his son William, who found him walking his room in extreme pain. His physician was at once summoned. He administered morphine, which allayed the pain and permitted the senator to go back to bed. He never left it. The attack was a rupture of the lower intestine, resulting from an irritation of many years' standing.

His physicians perceived the fatal character of the attack. There was little that could be done beyond alleviating the pain and keeping the patient comfortable. After the first two days he seemed to improve. The ashy hue which had covered his face passed away, and was succeeded by his natural color. He appeared in good spirits, though conscious of his danger. He told his sons he wished them to be with him as much as possible. He conversed cheerfully and sometimes with fun and banter. But the end was inevitable. On the morning of September 9 a further giving away of the intestine occurred, when he sank into a stupor and died, unconscious, at four o'clock in the morning.

CHAPTER XII

HOME LETTERS : EULOGIUMS

I AM reluctant to close my review of father's life at this point, although the narration of his public services is ended. Reading over what I have written, I feel that I have pictured only the official side. The reader may well wonder what kind of man was the senator at home, among his intimate friends, and with his wife and family. Father had little continuous home life, but what he did have was very dear and precious to him. Very early in their married life mother became an invalid, so much so that she could not leave home with father. When he was at home she was his first thought and was first in his love. His attitude towards people generally was not effusive nor expansive, but he loved his family and his home circle intensely, and, in sharp contrast to his attitude to people generally, was warmly demonstrative and affectionate. He loved us and had no embarrassment or reticence about telling us so. When a valued and old friend came to the house to call of an evening, father, if he saw him coming, would go to the door, sometimes to the sidewalk, and greet his friend with a warm hug, and lead him into the house with his arm about him. He loved to sit in the garden back of the house on one of the benches or in the summer-house, with mother or me or one of the other boys, with his arm around us, and have long talks about the smallest details and occurrences during his absence from home.

During his public life and for many years of his professional life he was a very busy man and compelled to long

and many absences, and in taking up his Washington life he deprived himself of his home life and family companionship.

Mother was ill and we boys were going to school at Portland, or to college at Brunswick, and the home had to be at Portland. But we were never absent from his thoughts. He was writing all the time to somebody at home, and if any one of his sons did not write him frequently, we received from father a prompt complaint about it. He fairly hungered for home letters.

After we were old enough to understand matters, father never imposed a command nor refused a request without a kindly statement of his reasons. He had a slight muscular contraction on one side of his face which gave it a severe, stern look on that side, while the expression of the other side was genial and smiling. This was first brought to our notice by a lady who was visiting the house. Father used to sit in a small square ell of the house which jutted into the garden. It had windows on each side so that one could from the outside look through it. One day this lady was in the garden and father was sitting in the ell. She saw him there in profile, and the expression of his face was so stern that she hesitated to enter, but upon entering found him in the pleasantest frame of mind, but with one side of his face stern while the other was pleasant. She told my brother to go and look at father from both sides. My brother did so and saw the difference in the expression of the two sides of father's face. Thus we came to perceive it.

His letters home were spontaneous, rapidly written, and very frequent, and as I read them now after many years, it seems as though father was with me. They are so like his home talks.

When I was at college in 1855 he wrote me: —

“We have not heard from you so often this winter as we could have desired, but do not impute it to any want of affection. I hope you will write after returning to college. God bless you, my dear boy, and keep you always, as hitherto, I fully trust, honest, true-hearted, and deserving the warmest affections of your father.”

I remember my brother James had spent more money at college that year than he ought, and had borrowed some money. He wrote father about it and father sent him some funds in a letter which I have found: —

“I must enjoin it upon you to borrow no more money, unless in case of such a pressing necessity that you have no time to write to me. Especially have you no moral right to borrow money for mere purposes of amusement, and which you have no means of paying. I shall have something to say to you when we meet on this matter of money, for I perceive you are getting loose in your habits of spending, and careless of proper distinctions between what you have and have not a right to use. Proper notions on this subject cannot be too carefully cultivated.

“However, my dear boy, I do not mean to scold you much, as I trust in the main you are correct and studious, and you have always been a good son. A little reflection will, I have no doubt, set all right with you. I have proud hopes of you and could not bear to see you straying in any degree from the path of duty. Attend well to your studies, learn to deny yourself when necessary or expedient, and you will do well.”

During vacation I wished greatly to go to Moosehead Lake, but the “sinews” had to come from father and I asked his permission with a strong intimation that I wanted money also. He refused me, but wrote: —

“Though anxious to indulge you, I feel under the necessity of deciding against the Moosehead expedition,

unless it is necessary for your health. If well and hearty, I think you must be content with such exercise and amusement as we can find for you nearer home. The truth is, I must husband my cash. The repairs are costing me a very large sum, your bills and Sam's are high, and your mother is now at Brattleboro' at a very heavy expense. Taking all these things together, with necessary household expenses and what my unfortunate political position costs me, my pecuniary resources diminish at a very rapid rate. Even my capacity to earn money is pretty severely tested. Besides, I am not well, and though needing it much, am compelled to deny myself a vacation and devote myself to unceasing labors.

"Under these circumstances, my boy, I am sure that you will cheerfully dispense with what I cannot well afford."

Next year I wanted to visit Calais with some companions, but my experience of the year before led me to ask mother instead of father. She wrote to him and he replied to me:—

1856. "Your mother writes me that you desire to make a visit to Calais during your coming vacation. You have been so good a son, and I love you so much, that I should at any time refuse any request of yours with reluctance. I have, accordingly, written her on the subject, and have not refused my assent, if you very much wish to go. My principal objection arises from a nervous anxiety lest some evil should befall you. William is far away, and I am anxious for him. Sam has left us, and God only knows what will become of him. My heart is troubled for both of them. To be deprived of you would, I fear, destroy me. Be careful and prudent, then, my dear boy, for my sake. Do not rashly expose yourself either on the water or on the land. Young fellows of your age are naturally

confident, and fond of boating and hunting, and think little of the risk and exposure which we, of maturer years, well understand. If you decide to go, therefore, keep clear of all that may subject you to danger, and be not over-confident of yourself nor trust too much to associates no wiser than yourself.

“You will remember, too, that I shall have little opportunity to see you, and that your society is always a pleasure to me.

“I am compelled to be as economical as possible in order to avoid pecuniary embarrassment. There is no prospect of immediate relief. I hope you will bear this in mind on all occasions, and endeavor not to add to my burdens. I do not complain of you, my son, for I have nothing to complain of; but it is as well that you should exactly understand my position.”

Here are two of many letters to James, my brother, expressive of his affection and fatherly gratification, and a few early letters to me: —

1856. “Thus far in life you have done nothing but add to my state of happiness, and I daily thank the great Author of all living for having given me so upright and affectionate a son. Hasten, my dear boy, to fit yourself for the active duties of life, so that, should I be called to my account, I may leave you in the full tide of usefulness and honor.”

1858. “It seems but as yesterday, my dear boy, since I looked upon you in your cradle. In a fewer number of years, and in much less *apparent* time to both of us, I shall probably be elsewhere. You, I trust, will be spared for a long life of usefulness and honor, for which I have been anxious to educate all my children, — being satisfied that, if I accomplish this, I shall have done something to redeem the many errors of my life.

"It is a great pleasure to be able to say that I am happy in all my sons."

1858. "I do not agree with you that an *oath* is ever useful in conversation, under any circumstances. It adds neither force nor beauty, but detracts from both. Besides, as a general rule, it betokens want of ideas, or, at least, of proper language, and the habit is always to be eschewed by every well-bred man."

1858. "Both your letters have been received, that of the 2d inst. having come to hand this evening, and been read with much pleasure, assuring me as it did that those whom I love so much, at and about my own home, are all well and happy.

"You, in the mean time, can be preparing for your turn at the wheel. It will come soon enough, for if I leave my sons nothing else, I shall bequeath them the legacy of eternal warfare upon this infamous slave system, in all its parts and aspects. It is to be a contest of years, and I shall not live to see the end. If you do not witness its extinction, you will, I trust, live to see its gradual and sure decay — the fatal arrow in its side."

1859. "I wish you and William to be comfortably provided for during the winter, and am willing that your arrangements should be such as gentlemen require. Within that limit, using sound discretion, I leave the selection to your judgment."

1860. "You are, I believe, of age to-day, and my legal control over you ceases. I have no fears, however, that any influence I might wish to exert will be seriously diminished, for my rule has been one of affection, which has always been cheerfully acknowledged and submitted to. You have been a dearly loved son from the hour of your birth, and your legal emancipation will in no degree lessen my love. Up to this hour you have never given me pain,

but have been to me a comfort and a pleasure. Keep on, my dear boy, in the good and manly course you have thus far followed, and you will meet my warmest hopes for your usefulness in life. I shall be able to meet with cheerfulness the termination of my career, if I can see all my sons walking manfully in the ways of truth and uprightness before God and man."

1859. "William and I have spent a part of the time playing billiards, as he gives me 20, and then beats me by as many more, and says that you and Sam play better than he does. I have a faint idea where my money has gone. I trust, however, that you will give me a better account of it by and by."

When I had my first professional interview with a client I wrote father about it, and I find his letter in reply. There must have been something conceited in it which he thought needed taking down, for he answered:—

1857. "It is quite possible that your *client* might have been a better judge of dignity than learning. In which case, it is possible that in your case she was most impressed by what she knew the least about—'*Verb. sap.*'"

James and I were both in active service during the war, and father lavished on us both letters, and letters full of cheering words and sustaining love. Hardly a day was allowed to pass by him, when we were in any possible danger of hardship or injury, that he did not write some cheery, comforting message to us. There are hundreds of them preserved, but a few will serve to show how his affection followed us through those days of peril:—

1864. "Once more farewell, my beloved son, and may God preserve and bless you."

1864. "Never could a father love son more than I love you, and life for me would be almost, if not quite,

unendurable without any one of my remaining children. I will not allow myself to anticipate any calamity, but hope always for the best. I am sure that you will do your duty, as you always have, like a Christian soldier."

1864. "My anxiety for your life and health overrules all considerations of glory—for I love *you*, and no amount of glory would render you more dear to my heart. This consideration always deters me from taking the responsibility of advising you. You must therefore consult your own judgment, and decide as a sense of duty and a regard for your own reputation under all the circumstances may dictate. I suppose there will be some little time before any movement."

1864. "I have just received a telegram, stating that you had left N. O. in good spirits and doing well. I hope this will find you still better—I write this in my seat, overwhelmed with the tax bill—the good news has made me light as a feather. Welcome home, my dear boy, and God bless you."

1864. "I will be content, however, as I must be, to hope that we may soon meet again, and that I may have the happiness of again embracing my beloved son, feeling and knowing that he is in health and safety."

1864. "May this find you, my beloved son, in life and fast returning health. My anxiety is intense. Soon I will hope to be relieved by the assurance that you will soon again be restored to the arms of your loving father."

1864. "I think of you constantly and with intense affection. May God preserve and bless you, my dear boy."

1864. "May a good Providence still watch over and protect you and our dear James, who, I am told, is handsomely mentioned by General Hooker in his report of the Lookout battles.

“Your reputation for courage and coolness is now well established, and I hope you will, for the sake of those who love you, take all the care of yourself which military rules and your sense of duty will allow.”

1864. “My constant hopes and prayers are for your health and happiness, and above all that you may so live as to be at all times ready to die, if need be, in the discharge of your duties to God and man. If you are to leave this world before me (which may God avert), I shall have nothing but a life of obedience and love to reflect upon, on the part of my darling son. But I trust you will be spared to comfort my declining years, and to close my eyes.

“Take care of yourself, my dear boy, and that God may preserve you from harm and keep your feet from falling, is the unceasing prayer of your loving father.”

1864. “You have done your duty nobly, and endeared yourself more, if possible, than ever to all of us. You well know, however, that my love for you can neither be increased nor diminished. I await further news from you with extreme impatience.

“You will not, I trust, lose your life, but if you should, it will not be half so great a misfortune as having done a thing to be ashamed of.

“However this may find you, my dear son, keep up a good heart, trust in God, and know that many anxious and loving hearts are beating for you.”

1864. “Finally, my dear son, let my wishes prevail upon you to take all needful care of yourself, for the sake of those to whom you are so dear. I think of you daily, if not hourly, and always with the most anxious and intense love — for on earth there is no one dearer to me than you are, and always have been.”

“And now, my beloved son, take with you your father’s

assurance that you have always been a most dutiful and affectionate child. You have honored your father and your mother always, and have entitled yourself to the length of days promised to those who keep that commandment. Feel assured, wherever you are, that your father's thoughts will and do attend you continually."

To a cousin father wrote frequently. She was Mrs. Warriner, a widow. After mother's death, Mrs. Warriner made her home with us for many years. Some of his letters to her throw an interesting light on his own feelings towards divers matters and individuals:—

1864. "How I should like to look at the garden this morning—just to stroll up the main walk, and see if everything was in order. How much better than sitting here, pen in hand, indulging vain wishes and thinking, Porthos-like, how much better and nicer is the little spot I claim as my own than any other I ever saw."

1866. "If 'I will work,' you say. How can I help it? The questions at issue are infinitely important to the future of this country. The Senate designate the share I must take in their solution. How can I shrink from the burden thus laid upon me? Could I feel safe in leaving them in other hands, I would gladly retire from the position. But I can see that I cannot safely do so. At times I am despairing,—despairing of a favorable issue, despairing of my own strength to go through, and disposed to give up all to chance. All I can do is to act as if I was patient, swallow my wrath, and try to evoke something like order and safety out of the danger around us. But enough of this."

1866. "I must stay, come what will, until our course is defined. No excuse for leaving my post now would be satisfactory to the country. How heartily I wish myself a nobody."

“WASHINGTON, January 7, 1866.

“Mr. Hooper has undertaken to reconcile Sumner and myself. I said a word to Hooper commendatory of Sumner’s speech, and he was so much pleased that he opened his heart. He said that Sumner said that if we only went together we might rule the Senate — said that Mr. Webster would never let any one speak to him when Mr. Clay was speaking, though they were not on good terms, but that I seldom listened to him. . . . This is ‘confid.’ — as I promised H. not to tell anybody. H. wished to know if I was willing to be reconciled to Sumner. I said ‘Yes, if he desires it and makes the advances.’ ”

1866. “A few evenings since I went up, by invitation, to the Hoopers’, and had a game of bezique. The widow looked prettier than ever, and I became convinced it would not do for me to see too much of her. We had finished two games, and were in the midst of third when callers came in and broke it up. I begin to think Mr. Sumner is looking in that direction. He is always in attendance at the Senate, finding seats, and on hand to wait on them out — a most unusual thing for him. Perhaps, however, it is only in payment of the many good dinners. By the way, have you seen that we are friends again? The papers, with their usual accuracy, state that I made advances. The fact is just the reverse. As I stepped out of the Senate one morning to go to my committee-room, I heard some one say, ‘Fessenden,’ and, on turning round, saw Mr. Sumner, who advanced with his hand extended, and smiling, said: ‘I wished to shake hands with you.’ I gave him my hand and said: ‘What about?’ He said ‘You understand it, — I have wished to shake hands with you ever since our friend’s funeral. Do you understand me?’ I replied, ‘Precisely.’ And we separated. Since

that we have met as of old, and he often comes to my seat to say something. How the idea got abroad that *I* made advances is a mystery, unless he so intimated, which he is quite capable of doing. I don't love him, and never can, — but the hatchet is buried and I shall not dig it up again. The Hoopers are very much rejoiced, and I suspect they had something to do with it."

1866. "Why did n't I take the judgeship? Simply because I did not dare to leave my post just at this time. I desired it much, and most joyfully would I have left Washington behind me forever. But there are yet so many great interests at stake, and so much remains to be done, that I had not the courage to retreat into a safe place. Most reluctantly did I give up what has long been my favorite wish. But it is done, and I rejoice that I was able to secure the place for so good and capable a man."

1860. "Any one reading my letters to you must think me very short of ideas. They are all 'garden,' 'garden,' 'garden.' But, in truth, you are so connected with all my thoughts of home that, having no one else to talk with about it, the subject is always uppermost, for you know how I love that little spot of my own. There is none upon earth where I have enjoyed so much pleasure, none where my presence seems so welcome. If its beauties are invisible to others, I never fail to see them. Oh! that I was there on this sweet and quiet morning, reveling in its delights, and dreaming of others yet to come. My very pen leaps to the anticipation of all the pleasures it has in store for me when these wearisome labors are over."

"WASHINGTON, February 5, 1860.

"MY DEAR COUSIN, — I return ——'s letter as you desired. I hope she will give up the school unless she can get matters fixed to suit her. I wish I was rich enough

to give you all a fortune, so that no one of you would be obliged to do anything you don't like. You know that I think —— a darling, but there are sundry serious troubles in the way of proposing the arrangement you refer to. You are aware, my dear cousin, of one preliminary condition without which no arrangement would ever satisfy me, and with regard to which I require the strongest assurance. Without it my pen will refuse to write and my tongue to speak. Supposing that difficulty removed, there remains a case of conscience. Suppose that she would accept me, which is not probable (though the chance of a refusal would not influence me), ought I to allow such a charming girl to sacrifice herself, even if she would? I am not rich enough to leave her a fortune. At best I should have but a few years of what could be called life to give her. She would be exposed to the contingency of wasting her best years upon an old man who has pretty much drained his cup to the bottom. Is it not rather my duty to watch over her so far as I may, and guard her youth and inexperience against such an error? Would I be justified in winning her love, if I could? Would the few years of possible happiness together, with the position that I could give her, counterbalance all that I might rob her of? Tell me what you think about all this.

“Between two people not too far removed from each other — say not more than a dozen or fifteen years, the exchange of love is equal. It will justify the surmounting of many obstacles which to appearance are insuperable. Experience has satisfied me that in such a case compensation may be found for many sacrifices — indeed for all. The flowers and fruit which spring from such a soil are beyond all price, whatever may be their cost. When once enjoyed in perfection, their odor and flavor are never lost. Their presence is divine; their memory is refreshing,

and the hope of their return is worth all other hopes. Just hear P. talk about *his* wife, and judge whether I am not right. I wonder whether she loves him as much? I believe he is nearly or quite fifteen years older than she is. Do you suppose he could part with her for another? Believe it not."

1861. "Well, twenty-one years are quite a large portion of life, and they have gone rapidly, leaving their traces upon both of us. Much grief have I suffered during that time, but I have had my share of pleasure too. Your constant affection through all has been a great comfort to me. You have done your best to console me in sorrow, and added largely to my sum of happiness. It would be strange, then, if I did not love you, and feel the most affectionate interest in all that concerns you. That I do so, I trust you are well assured."

1861. "I feel quite sad sometimes, when thinking how much better off in all particulars I might be among the friends from whom I have experienced so much kindness, and whom I so dearly love. Isn't it abominable that I cannot have their company just when I want it? I don't think a man of my age ought to be left so much alone. He is apt to grow rusty and dull, and it takes too long to 'brighten' him up. Talking in the Senate is one thing, and talking with you is quite another. That quiet little circle where I always seem so welcome is of far more importance to me than the listening crowds which throng our galleries, and its pleased approval far more satisfactory than mere popular applause."

1864. "I cannot help contrasting this Sunday morning with the last, when I had the first news from Louisiana, and my heart was torn with apprehension as to the fate of my dear son. This morning's mail brings me a long letter from him, assuring me of his safety, his perfect

health, and his pride in the good conduct of his regiment. Then I was rebelling against Providence — now I am profoundly thankful to a merciful God. Tears of penitence and joy fill my eyes as I write. Such is my nature. Suffering hardens me. Kindness softens, and makes me grateful, and, therefore, better.”

With a few contemporary opinions of Mr. Fessenden I will close this history.

Reverdy Johnson said of him : —

“That he had no superior as a debater ; that his style was not ornate but studiously simple ; that his propositions were laid down in plain language and enforced with a masterly logic which, if it did not on all occasions convince, caused his opponents in debate the greatest difficulty. His great industry, his perfect mastery of his subjects, and his clear elucidation of them were universally admired and hardly ever failed of producing their adoption.”

John R. French was sergeant-at-arms of the Senate during the period of the civil war and reconstruction, and in his account of these times he says : —

“No ten years of the Senate were marked by larger questions or more brilliant statesmanship. By general consent William Pitt Fessenden was placed at the head of the galaxy of the great men of that period. He was an untiring worker in committee, preëminently wise in counsel, and unmatched in debate. He made no attempts at oratory, but no other man’s statement was so clear, no other man’s argument was so impregnable. He scarcely ever raised his voice above a conversational tone, used few gestures, and using common, every-day words, talked straight on to the full elaboration of his theme, and to the complete discomfiture of his opponents. The great

questions of the war brought forth his great powers of logic and invective, which have rarely been surpassed in any legislative body. His sole aim seemed to be to forward the business of the Senate."

Mr. Sumner:—

"The absence of his ready power, his guiding judgment, and his conspicuous presence in debate, seemed to take away that identity of the Senate which it received so largely from him." Alluding to his debating power, Mr. Sumner described his speech as being "direct, argumentative, and pungent, exerting more influence on those who heard it than on those who read it, vindicating his place rather as a debater than an orator. This place he held to the end without a superior, without a peer. Nobody could match him in immediate and incisive reply. His words were swift and sharp as a scimiter. He shot flying and with unerring aim."

Mr. Trumbull:—

"As a debater engaged in the current business of legislation the Senate has not had his equal in my time, and no political friend ever feared the result of a discussion that was in his hands."

Senator Patterson of New Hampshire said:—

"While the grasp of his intellect was large and comprehensive, his most striking characteristic was a marvelous power of analysis. The nature and minutest relation of every question seemed to come to him by an instantaneous intuition. How often have we seen him blast some fine theory by a single word as potent as the spear of Ithuriel."

Murphy, the veteran reporter of the Senate, after thirty years' service, was asked who of all the men he had seen during that time in the Senate he considered the greatest. He replied:—

“There is one thing I can say, as a debater in the Senate I have never seen the equal or superior of William Pitt Fessenden. There was a clearness, evenness, and ability in his speeches and interchanges that make him, to me, one of the great characters of the English language in legislation.”

Senator Dawes : —

“There was no mind in organism or culture like his, so completely made for antagonism and argument, and trained like an athlete for his work, to constant conflict and wrestling. For this reason he seemed to stand alone among his peers, that the sphere in which he worked was left him, few venturing to dispute his supremacy in it. To this peculiarity of mental structure and discipline is attributable much of that occasion for criticism to which his course not infrequently gave rise. In debate he so hated sophistry that nothing could prevent him from rending it to pieces, no matter whom he wounded. Subterfuge and pretense in argument were dealt with by him as downright dishonesty and fraud. Thinking he saw these phantoms flitting across the field of debate, he would charge indiscriminately on friend and foe, and leave wounds that were long in healing. Perfect command of thought and language in the most animated debate were marked characteristics of his mind. He wielded a Damascus blade that was never broken and seldom parried. With the coolness and deliberation of a surgeon with his dissecting knife, he laid bare every argument that fell in his way, and never left his subject so long as a muscle remained uncloven or a limb disjointed. He had power to touch the tenderest chord. Once, when forced to speak of his sons, he moistened every eye in the Senate, and his unpremeditated defense of Stanton at midnight on the floor of the Senate will live forever. In the dull and painful

drudgery, as well as the responsible duties of the statesman, he was equally patient and faithful, performing what each day fell to his lot as if it were his specialty."

Mr. Hendricks said that Mr. Fessenden was the ablest debater he had ever heard, that Fessenden would take up a measure, and without a note to aid him would never miss a point.

Mr. Hamlin remarked that Fessenden had one peculiarity that marked him in intellectual conflicts, that anger only stimulated him, and that he needed to be irritated a little to bring out all his powers.

An associate, in speaking of the charge against Mr. Fessenden that he was irascible, and sometimes lectured the Senate, remarked that —

"The Senate knew their man when they made him their leader; they knew his powers were sharp, and his impulses quick as lightning. They put upon him labors too great for the strongest man. They made him responsible for the due dispatch of business. They did not arm him, as the House arms its leaders, with the previous question to cut off useless debate, but they did expect he would apply the bit if necessary for restraint, and the whip and spur if needful to push on the revenue and appropriation bills. What if his patience was occasionally too much taxed, and his words too sharp? Much was to be borne from a man in his position. And everything was forgiven, for he was a man as quick to apologize as he was to assail."

Sergeant-at-arms French says : —

"He bore himself with graceful ease, but as he warmed with his subject and took fire at the interruptions and responses of his opponents, then that head which was usually inclined slightly forward was proudly thrown back, and he carried himself with an imperial bearing which attested the royalty of his nature."

And George W. Julian, the noted anti-slavery leader, and long a member of Congress, in his "Political Recollections" says, "There was a sort of majesty in the appearance and brow of Fessenden when he addressed the Senate."

Congressman Holman, in speaking of the great men of his time, described Fessenden as almost the only man of his period who appeared to him like Clay, Calhoun, and the line of great orators and statesmen of the first half of the century; that he delighted to see him debate, he was so skillful, so real, and so graceful. "In personal manner and bearing he was called 'the trimmest figure in the Senate.' His familiarity with his position gave him a light and easy grace of manner as if he had been born and bred to the place. No man seemed so much at home and accustomed there. As he walked the floor, dressed with airy neatness, you might have dubbed him a Premier, without the change of a hair."

"When he spoke," said Senator Morrill, "with nerves as firm and elastic as a Damascus blade, he bore himself proudly and with graceful ease, always choosing language the most simple, chaste, and fluent to express his meaning, and few who beheld his imperial bearing would have suspected his sensitive and retiring nature."

At his death the "Chicago Tribune" pronounced him "the most acute debater, the most thoroughly and masterly lawyer, the most commanding and judicious leader, the most accomplished and persuasive orator, and for years had been the model senator of the United States."

The impression he made upon the refined and talented Grace Greenwood is shown in one of her letters to the "New York Tribune," after his eulogies in Congress:—

"The eulogists vied with each other in their gracious tributes—in their honorable testimony. And yet the

bounds of simple truth were not overpassed, were scarcely reached. Their most glowing epithets, their most sounding periods, failed to give one that sense of Mr. Fessenden's rare nobility of nature and intellectual supremacy which was caught by a single glance at his living face, so pure and so intense, so strong, yet so exquisitely refined. It was a face set inflexibly against all shams and sophisms, social, moral, and political; but it was not an unbelieving face. It was keen and penetrant in expression, without a touch of cunning. It was marked by a peculiar pride, watchful but not jealous, lofty but not lordly. Much has been said of this characteristic pride of the great senator, but little perhaps understood. It was not an assumption, it was not even a habit. It was a native, vital element of the man. It hung about him like an atmosphere, a still, cold mountain air, utterly without the sting of hauteur, or the bluster of arrogance. You felt it without resenting it. It would never have prevented the unfortunate from approaching him or kept a little child from his knee. It made his smile more beautiful, made every indication of the inner sweetness and tenderness of his nature the more irresistible."

His most intimate friend among the senators, Mr. Grimes of Iowa, in a letter read in the Senate by one of his eulogists, described him in one terse and expressive sentence as "the highest-toned man he had ever known, the purest man he had ever known in public life, and the ablest man of his day."

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